

1 IN THE UNITED STATES DISTRICT COURT
2 FOR THE NORTHERN DISTRICT OF OHIO
3 EASTERN DIVISION
4 IN RE NATIONAL PRESCRIPTION | MDL No. 2804
5 OPIATE LITIGATION | Case No. 17-MD-2804
6 This Document Relates to: | Hon. Dan A. Polster
7 The County of Summit, Ohio, |
8 et al., v. |
9 Purdue Pharma L.P., et al. |
10 Case No. 17-op-45004 |
11 The County of Cuyahoga v. |
12 Purdue Pharma L.P., et al. |
13 Case No. 18-op-45090 |
14 City of Cleveland, Ohio v. |
15 Purdue Pharma L.P., et al. |
16 Case No. 18-op-45132 |

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19 TUESDAY, JANUARY 15, 2019
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22
23 HIGHLY CONFIDENTIAL - SUBJECT TO FURTHER
24 CONFIDENTIALITY REVIEW
25 - - -
26
27 Videotaped deposition of MICHAEL COCHRANE,
28 held at Foley & Lardner LLP, One Biscayne Tower,
29 2 Biscayne Boulevard, Suite 1900, Miami, Florida,
30 commencing at 9:11 a.m., on the above date,
31 before Kelly J. Lawton, Registered Professional
32 Reporter, Licensed Court Reporter, Certified
33 Court Reporter.
34 - - -
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THE VIDEOGRAPHER: We are now on the record.

3

My name is Anthony Barbaro. I am a videographer

4

for Golkow Litigation Services. Today's date is

5

January 15th, 2019, and the time is 9:11 a.m.

6

This video deposition is being held in Miami,

7

Florida, at 2 South Biscayne Boulevard, Suite

8

1900, Miami, Florida 33131 In Re: The National

9

Prescription Litigation for the United States

10

District Court, Northern District of Ohio,

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Eastern Division. The deponent is Michael

12

Cochrane.

13

Counsel, would you please announce your

14

appearances for the record.

15

MR. NOVAK: Paul Novak of Weitz & Luxenberg

16

on behalf of the plaintiffs. Also from Weitz &

17

Luxenberg today are Tiffany Ellis and

18

Michael Piggins.

19

MR. MATTHEWS: James Matthews for the

20

defendant Anda, Inc., and for the witness,

21

Michael Cochrane.

22

MS. CARDENAS: Cristina Cardenas from Reed

23

Smith on behalf of AmerisourceBergen.

24

MR. NOVAK: And can we have appearance of

1 counsel who are attending telephonically?

2 Don't all jump in at once.

3 MS. URQUHART: Hello. My name is Abigail
4 Urquhart, counsel for Walmart.

5 MR. DOWNS: This is Paul Downs for
6 Covington & Burling, counsel for McKesson.

7 MS. RIGBERG: Karen Rigberg of Arnold and
8 Porter appearing on behalf of the Endo & Par
9 defendants.

10 THE VIDEOGRAPHER: Okay. The court reporter
11 is Kelly Lawton, and she will now swear in the
12 witness.

13 THE COURT REPORTER: Sir, would you please
14 raise your right hand.

15 Do you swear or affirm the testimony you're
16 about to give will be the truth, the whole truth,
17 and nothing but the truth?

18 THE WITNESS: I do.

19 THE COURT REPORTER: Thank you.

20 MICHAEL COCHRANE, called as a witness by the
21 Plaintiffs, having been first duly sworn, testified
22 as follows:

23 ///

24 ///

1 DIRECT EXAMINATION

2 BY MR. NOVAK:

3 Q. Mr. Cochrane, can you provide your full name
4 and address for the record?

5 A. Yep. It is Michael Daniel Cochrane. Address

■ [REDACTED]

■ [REDACTED]

8 Q. Okay. Have you had your deposition taken
9 before?

10 A. No.

11 Q. Okay. Let me go through a couple just kind
12 of ground rules.

13 The first is make sure to try to provide your
14 answers orally rather than just through a head nod or
15 other gestures.

16 If you don't understand one of my questions,
17 let me know and I'll try to repeat it or rephrase it
18 so that hopefully it's understandable.

19 And if at any time over the course of the
20 deposition you feel like you need a break, let me
21 know and I'll try to accommodate you as quickly as
22 possible.

23 Can you provide for me what your last title
24 was at Anda?

1 A. Executive director of regulatory compliance.

2 Q. How long were you with the company?

3 A. Just over 19 years.

4 Q. Okay. Before you started with the company,
5 can you give me just a very brief description of your
6 education and your prior employment history?

7 A. High school diploma.

8 Q. Okay. And employment history after high
9 school?

10 A. Was Anda.

11 Q. Okay. So Anda was your first job out of high
12 school?

13 A. Correct.

14 Q. Okay. And when did you start with the
15 company?

16 A. March of 1997.

17 Q. And was it Anda that you started with or
18 Andrx?

19 A. Anda.

20 Q. Okay. And what was your initial position
21 starting in March of '97 with Anda?

22 A. Warehouse operator.

23 Q. Where was that?

24 A. In Davie, Florida.

1 Q. How long did you serve as a warehouse
2 operator?

3 A. Don't really remember. Several years.

4 Q. What position did you hold -- by the way, you
5 said 19 years at Anda. Was that continuous
6 employment?

7 A. Yes.

8 Q. Okay. You never stopped and worked somewhere
9 else?

10 A. No.

11 Q. Okay. After the warehouse operator position,
12 what was the next position you held at the company?

13 A. I was the team leader of the controlled
14 substance cage.

15 Q. When you say controlled substance cage, are
16 you talking about a portion of the warehouse facility
17 in Davie, Florida?

18 A. Yes.

19 Q. And can you give me a brief description of
20 your responsibilities as a team leader of the
21 controlled substance cage at that facility?

22 A. Running the pick, pack, and ship operation as
23 well as our inventory control and warehouse
24 management functions.

1 Q. Roughly what time did you hold the position
2 of controlled substances cage team leader?

3 A. Sometime in 1999 probably through 2001.

4 Q. Okay. When you described one of your
5 functions in that position as inventory control, can
6 you give me a brief description as to what your
7 duties as it related to inventory control entailed?

8 A. Counting the products and doing inventory
9 reconciliation in the event there were any variances
10 or any shipping -- potential shipping issues.

11 Q. Okay. What position did you hold after the
12 controlled substance cage team leader?

13 A. I don't remember. I think it may have been
14 compliance manager.

15 Q. And during what time did you hold the
16 position of compliance manager at the company?

17 A. I don't remember the dates.

18 Q. It would have started sometime after 2001?

19 A. Yes.

20 Q. And approximately when did you -- well, let
21 me ask a different question.

22 What position did you hold at the company
23 after compliance manager?

24 A. Maybe it was DEA compliance manager prior to

1 compliance manager. Then it was compliance manager.

2 Q. So from the controlled substance cage team
3 leader, you became DEA compliance manager and then
4 compliance manager after that?

5 A. I believe so, yes.

6 Q. Okay. And what time did you become
7 compliance manager?

8 A. I don't remember the dates.

9 Q. Roughly.

10 A. 2003 potentially.

11 Q. How long did you hold that position?

12 A. I don't remember.

13 Q. What position did you have after compliance
14 manager?

15 A. Maybe compliance logistics manager. I can't
16 remember all of my titles dating back that far.

17 Q. Sure.

18 Do you have the approximate time frame for
19 the compliance logistics manager?

20 A. I don't.

21 Q. By the way, for the positions of DEA
22 compliance manager and then compliance manager, were
23 the duties roughly the same or did they change?

24 A. They changed somewhat.

1 Q. Okay. Why don't you describe first the DEA
2 compliance manager and what your duties were in that
3 position.

4 A. It was the pick, pack, and ship operation
5 from a logistical standpoint. Inventory control,
6 receiving, anything from a warehouse function.

7 Q. Did you have any duties as it related to
8 reporting to the Drug Enforcement Administration?

9 A. Eventually, yeah. I was doing our ARCOS
10 reporting, which was a monthly submission of
11 controlled substances transactions.

12 Q. Anything other than ARCOS report in terms of
13 duties that entailed communications with the DEA?

14 MR. MATTHEWS: Can you clarify just the time
15 period?

16 MR. NOVAK: I think he testified
17 approximately 2001 to 2003.

18 MR. MATTHEWS: Okay. So limited to when he
19 was DEA compliance manager?

20 MR. NOVAK: Yes.

21 MR. MATTHEWS: Thank you.

22 THE WITNESS: Not that I recall, no.

23 BY MR. NOVAK:

24 Q. Okay. And how about when the position

1 switched to just general compliance -- or just the
2 term "compliance manager"? Did you have expanded
3 responsibilities for reporting to the DEA at that
4 time?

5 A. Not that I recall, no.

6 Q. Okay. How did your duties change when you
7 shifted from DEA compliance manager to compliance
8 manager?

9 A. I also took over the licensing aspect of our
10 facilities and the duties of compliance as far as the
11 Department of Health was concerned.

12 Q. Is that the Florida Department of Health?

13 A. Yes.

14 Q. I may have touched on this, but do you recall
15 approximately when you switched from compliance
16 manager to compliance logistics manager?

17 A. I do not.

18 Q. Roughly how long did you serve as a
19 compliance logistics manager?

20 A. I don't remember.

21 Q. What were the duties that you had as a
22 compliance logistics manager?

23 A. I still had -- I still oversaw the pick,
24 pack, and ship operation of the controlled substance

1 area as well as following Florida Department of
2 Health and the newer pedigree regulations that
3 started in 2003, I believe, 2004, maybe.

4 Q. Is that the sum and substance of your duties
5 as a compliance logistics manager?

6 A. Yes.

7 Q. What position did you hold after that?

8 A. I don't remember. Director of compliance,
9 maybe.

10 Q. And approximately when did you become
11 director of compliance?

12 A. I'm not sure. Sometime between 2005 and
13 2010, I would think.

14 Q. Is when you started in that position?

15 A. I believe so.

16 Q. Okay. And can you give me a description of
17 your duties in that position?

18 A. It all encompassed the same thing. The pick,
19 pack, and ship operation of the controlled substance
20 area as well as prescription drug pedigree
21 regulation. And at some point through there I also
22 took over the licensure of our facilities, but I
23 can't remember the specific dates.

24 Q. Okay.

1 (Anda - Cochrane Exhibit 1 was marked for
2 identification.)

3 BY MR. NOVAK:

4 Q. We've had marked as Anda - Cochrane
5 Deposition Exhibit 1 a two-page document, the first
6 page being an e-mail that appears to be from Al
7 Paonessa to Patrick Cochrane dated May 18, 2010, the
8 second page of which appears to be a -- an
9 announcement of some sort.

10 And I'd like you to look at the second page
11 of Anda - Cochrane Deposition Exhibit 1, particularly
12 the portion of the exhibit that relates to you.

13 MS. RIGBERG: Excuse me. This is Karen. Is
14 there a Bates Number for this document?

15 MR. NOVAK: Oh, thanks. The document bears
16 the Bates Number 11 -- 110043 and 44.

17 MS. RIGBERG: Okay. Good. Thanks.

18 BY MR. NOVAK:

19 Q. Have you had a chance to review the document,
20 Mr. Cochrane?

21 A. Yeah.

22 Q. And really what I wanted to focus on is
23 really the characterization of the responsibilities
24 of your position as director of logistics compliance

1 are accurate from your perspective as of that time in
2 2010?

3 A. Yeah.

4 Q. Okay. Now, one of the duties that is
5 referenced in that page of Anda - Cochrane Deposition
6 Exhibit 1 is "Review and determine the control limits
7 of all accounts."

8 You see that reference?

9 A. I do.

10 Q. Can you describe for me what that means?

11 A. At that point in time, we had a system where
12 we were restricting customers to specific amounts of
13 controlled substances, and if they were in need of
14 more, then what we developed as a threshold, we would
15 do a review of the customer to determine whether or
16 not their limits were where we thought they should
17 be.

18 Q. And you were the one responsible to review
19 and determine as of this time in 2010 what those
20 limits were for each customer?

21 A. In 2010, I believe we had a baseline of
22 either 5,000 or 1,000. I'm not sure. And then we
23 would adjust accordingly from there.

24 Q. Okay.

1 A. I can't remember at that specific date what
2 the specific numbering or limits were from a starting
3 standpoint.

4 Q. Right.

5 Did you receive the title of executive
6 director around this time in 2010?

7 A. I don't remember. If it wasn't around this
8 time, it was shortly after, I would think.

9 Q. Okay. And was your title executive director
10 of compliance?

11 A. I believe it was executive director of
12 regulatory compliance.

13 Q. And that is the position that you held at
14 Anda for the remainder of your time there?

15 A. Yes.

16 Q. And you received that title in approximately
17 2010?

18 A. I believe so.

19 Q. Can you give me a description of what your
20 responsibilities were as the director -- the
21 executive director of regulatory compliance?

22 A. Yeah. I was the certified designated
23 representative. I managed all of our customer
24 licensing, the review and determined the control

1 limits, ensuring the company's DEA regulatory state
2 and federal compliance, OSHA, EPA, PDMA, DEA,
3 everything that's listed on this form.

4 Q. Okay. Did your duties expand at any time
5 from 2010 until your departure from the company?

6 And when did you leave the company? 2016?

7 A. '16, yes.

8 Q. Did your duties expand from the period of
9 2010 to 2016?

10 A. Yeah. I took over sales training for a short
11 period of time, and that was it.

12 Q. Okay. Who did you work with in performing
13 the sales training function?

14 A. There was a department that was already
15 assembled prior to me inheriting it after a reorg
16 that was done sometime in 2014, 2015, maybe. There
17 was already a team of maybe five people or so that
18 were part of that department that I ended up taking
19 over.

20 Q. Okay. Who were those individuals back in
21 2014 or '15 that reported to you when you took over
22 the sales training requirements?

23 A. Specific names?

24 Q. Yeah.

1 A. Margaret Haines, Abby Pratter, Chuck
2 Brooks -- he was the -- he was the sales training
3 manager at that point -- Dezzy Perez, Leann Brenham.
4 There might have been two other ones. I can't
5 remember their names.

6 Q. Okay. You also had a regulatory compliance
7 staff that reported to you?

8 A. I did, yes.

9 Q. And at this roughly 20 -- well, let's go back
10 to approximately 2005 when you were the director of
11 compliance.

12 A. Okay.

13 Q. Who was it that reported to you at that time?

14 A. In 2005, I had Miguel Palma, a team of
15 warehouse operators under him that ran the actual
16 pick, pack, and ship operation of the controlled
17 substance area. I had Emily Schultz, Vivian Harvey,
18 maybe one or two others that I can't remember right
19 now.

20 Q. Okay. When you began to review and determine
21 control limits of accounts, who was it that assisted
22 you in performing that function?

23 A. Emily Schultz to start, and then from there
24 we expanded the department sometime after 2010.

1 Q. Okay. And who else in addition to
2 Emily Schultz when you got into 2010 and later?

3 A. After 2010, it was Sabrina Solis, then
4 Mary Barber. For a short period of time, we had
5 someone named Howard Davis. Latoya Samuels after
6 that. Before I left, John Kincaide, Robert Brown,
7 and one other I can't remember.

8 Q. Okay.

9 A. That's stretching from after 2010 through --
10 through '16.

11 Q. Okay. By the way, for purposes of preparing
12 for this deposition, what did you do?

13 A. What did I do?

14 Q. Yes.

15 A. I met with James and Katie.

16 Q. When was that?

17 A. Yesterday.

18 Q. Without telling me the substance of any
19 documents, did you review documents in your meeting
20 with James and Katie?

21 A. I did.

22 Q. Okay. Now, for purposes of all of these
23 different responsibilities and titles that you
24 performed over your 19 years at Anda, did the

1 documents that you reviewed yesterday assist in
2 jogging your memory on some of the details?

3 A. For some, yes.

4 Q. Okay. Did they assist in refreshing your
5 recollection about particular facts or events as it
6 related to the performance of your responsibilities?

7 A. For some of them, yes.

8 Q. Okay. When you say for some of them, you
9 mean for some of the facts and events?

10 A. Yes.

11 Q. Okay.

12 (Anda - Cochrane Exhibit 2 was marked for
13 identification.)

14 BY MR. NOVAK:

15 Q. We have had marked as Anda - Cochrane
16 Deposition Exhibit 2 a document that is the Notice of
17 Videotaped Deposition of Michael Cochrane for today.

18 Have you seen this document before right now?

19 A. No, sir.

20 Q. Okay. The documents that you mentioned that
21 you reviewed in preparation of your deposition, were
22 those solely documents that you reviewed yesterday?

23 A. Yes.

24 Q. Okay. Quantity-wise, roughly how many

1 documents were there?

2 A. Oh, I don't remember.

3 Q. Is there a stack of them that you reviewed?

4 A. No, not specifically a stack. I'd say
5 several.

6 Q. Were they something that you reviewed on a
7 conference table here in the office?

8 A. Yeah.

9 Q. Okay. About how thick of a pile of documents
10 were they?

11 A. They were one at a time. There was no
12 specific pile that we went through. I couldn't give
13 you a size or a stack or height.

14 Q. Okay. Over what period of time or how long
15 did you meet yesterday with counsel to prepare for
16 the deposition?

17 A. I'd say approximately four to five hours.

18 Q. Okay. And it was over that period of time
19 here in this office that you looked at those
20 documents?

21 A. Yes.

22 Q. Okay. Now, the notice of deposition
23 exhibit -- notice of deposition states in the second
24 paragraph: Pursuant to federal rule, Mr. Cochrane is

1 requested to produce on or before January 15, 2019,
2 copies of all documents, data, or information
3 reviewed in connection with his preparation for the
4 deposition.

5 MR. NOVAK: I'll ask counsel: Are you
6 willing to provide the documents that are
7 requested as indicated in that paragraph of
8 Exhibit 2?

9 MR. MATTHEWS: No, we're not.

10 MR. NOVAK: Okay.

11 MR. MATTHEWS: I don't think you have laid
12 the foundation.

13 MR. NOVAK: We'll come back to that issue in
14 a little bit.

15 BY MR. NOVAK:

16 Q. As it relates -- hold on.

17 Mr. Cochrane, I wanted to ask you with
18 respect to the time period that you worked at Anda as
19 to whether you had any compensation package that
20 included a bonus provision?

21 A. I did.

22 Q. Okay. What was the basis upon which the
23 bonus was paid? Were there factors involved in
24 determining your bonus?

1 A. Sure.

2 Q. And were those laid out in performance
3 objectives that were set forth at the company?

4 A. Yes, as well as the company's performance.

5 Q. So one of the factors was the company's
6 financial performance, and an additional factor was
7 the performance of goals that were specific to your
8 position?

9 A. Yes.

10 Q. How were those goals set?

11 A. They were set by our direct managers
12 specifically. I can't remember what they were.

13 Q. When you say by direct managers, who was your
14 direct manager during the time period that you were
15 the executive director of regulatory compliance?

16 A. Albert Paonessa, III.

17 Q. Did you leave your position at roughly the
18 same time that Mr. Paonessa left his, or was there a
19 period of time when you reported to his successor?

20 A. I reported to his successor.

21 Q. Okay. And that was?

22 A. Chip Phillips.

23 Q. So during the time that you performed as the
24 executive director of regulatory compliance, those

1 goals were set either by Mr. Paonessa and then later
2 by Mr. Phillips?

3 A. Yes, sir.

4 Q. Did any of those bonuses was a factor -- I'll
5 start over.

6 There came a point in time when Anda was
7 purchased by Watson. Is that your understanding?

8 A. Yes.

9 Q. Okay. And after they were purchased by
10 Watson, was Watson's financial performance a factor
11 in the payment of a bonus to you?

12 A. I believe it was.

13 Q. Okay. And then subsequently, when it
14 became -- or became known as Actavis, was the
15 performance or the payment of a bonus to you based at
16 least in part on Actavis's financial performance?

17 A. I believe so, yes, and as well as our
18 divisional performance since we were a subsidiary.

19 Q. Okay. Was any portion of your bonus based
20 upon meeting particular regulatory compliance goals?

21 A. I believe there were some, yes.

22 Q. Okay. What were they, if you recall?

23 A. Specifically, prescription drug pedigree
24 compliance, following the DSCSA Act, the federal

1 pedigree rule that kind of trumped Florida's pedigree
2 rule. There may have been some in there from an
3 evaluation of customers. I don't remember.

4 Q. Okay. Anything related to compliance with
5 goals associated with controlled substance
6 regulation?

7 A. Not that I can remember, no.

8 Q. During the years that you were paid bonuses,
9 roughly, what was the percentage of the bonus
10 compared to your base compensation?

■ ■ [REDACTED]
■ [REDACTED]
■ ■ [REDACTED]
■ [REDACTED]
■ ■ [REDACTED]
■ ■ [REDACTED]
■ ■ [REDACTED]
■ ■ [REDACTED]

18 Q. Okay. And at the time you left Anda, what
19 was your base compensation?

20 MR. MATTHEWS: Objection. I'm not going to
21 let him answer that question unless you can lay a
22 foundation for the actual amount he was paid is
23 relevant to the claims and issues in this
24 lawsuit.

1 MR. NOVAK: Okay. All right. We've got two
2 issues now. One is your instruction of the
3 witness not to answer with respect to
4 compensation of the specific amounts and also
5 the -- the refusal to provide documents that the
6 witness has testified refreshed his recollection
7 as to the performance of his responsibilities at
8 the company.

9 I think what I would like to do is call the
10 special master with respect to those two discrete
11 items to see if we can get a determination on the
12 production of the documents as well as whether he
13 should be allowed to testify on compensation.

14 MR. MATTHEWS: It's your prerogative. If you
15 want to do that, feel free to do it.

16 MR. NOVAK: And just so you know in advance,
17 the primary basis for my position that the
18 documents should be produced is that the witness
19 has testified that they assisted in refreshing
20 his recollection as to the performance of his
21 responsibilities and some facts and events.

22 MR. MATTHEWS: Would you like to give me an
23 opportunity to examine the witness on that so we
24 have a record -- a clear record?

1 MR. NOVAK: Well, he's already provided
2 testimony on that.

3 MR. MATTHEWS: He has testified in vague and
4 ambiguous ways that some issues were had -- his
5 memory was refreshed as to some issues and not
6 tied it to any specific document he reviewed. So
7 on the record as it exists, it is not clear what
8 document, if any, he reviewed was a document that
9 refreshed his recollection, and as to which you
10 might be able to overcome the otherwise
11 rock-solid privilege on attorney work product,
12 okay.

13 Those documents were selected by me as part
14 of my job representing this company to show this
15 witness. They are subject to the attorney work
16 product doctrine, and it's your burden to
17 overcome that. And if you think that the record
18 you have now overcomes that, fine, we can go in
19 front of the special master and argue it.

20 But I don't believe it does. And to the
21 extent it's not clear on the record that you
22 haven't asked about specific documents and that
23 he hasn't testified about specific documents, I
24 would like the opportunity to make it clear on

1 the record so that when we are before the special
2 master I can make representations based on
3 evidence and record rather than just my
4 representations of what happened. That's all.
5 It's up to you how you want to proceed.

6 MR. NOVAK: Okay. Well, I'm assuming that
7 the particular content of the documents that you
8 showed him are something that you will also
9 instruct him not to answer. So it's difficult
10 for me to go particularly further in providing a
11 more detailed evidentiary foundation.

12 MR. MATTHEWS: You know, I'm not -- I'm not
13 your lawyer. So you have to do it however you
14 want to do it, Mr. Novak.

15 MR. NOVAK: So I think we'll -- do you have
16 the phone number?

17 THE VIDEOGRAPHER: Off the record?

18 MR. NOVAK: Yes.

19 THE VIDEOGRAPHER: Off the record at 9:49.

20 (Recess from 9:49 until 9:51 a.m.)

21 THE VIDEOGRAPHER: We're now back on the
22 video record at 9:51 a.m.

23 (Anda - Cochrane Exhibit 3 was marked for
24 identification.)

1 BY MR. NOVAK:

2 Q. Mr. Cochrane, do you recognize the name
3 Joseph Rannazzisi?

4 A. Yeah, I have heard it.

5 Q. What is your understanding as to who Joseph
6 Rannazzisi is?

7 A. I believe at one point he was in charge of
8 the DEA. I don't remember his specific title.

9 Q. Okay. We have had marked a document that was
10 previously marked as Anda Versosky Deposition Exhibit
11 Number 1 and will be marked in this proceeding -- or
12 in this deposition as Anda - Cochrane Deposition
13 Exhibit 3.

14 Mr. Cochrane, is this a document that you
15 would have seen prior to today?

16 A. I believe so. I don't remember it
17 specifically, though.

18 Q. Okay. Generally, do you recall reference to
19 a Rannazzisi letter or letters that issued in the
20 2006 and 2007 time frame to various wholesalers and
21 distributors around the country?

22 A. Yes.

23 Q. And do you understand that Anda - Cochrane
24 Deposition Exhibit 3 was such a letter that would

1 have been received by Anda during that time frame?

2 A. Yes.

3 MS. RIGBERG: Is there a Bates Number for
4 this?

5 MR. NOVAK: Yes. Anda - Cochrane Deposition
6 Exhibit Number 3 bears the Bates
7 Number Anda540738 through 540741.

8 And I'll note someone probably has a copy
9 that may have my notes on it. Maybe not.

10 MR. MATTHEWS: Not me.

11 MR. NOVAK: Okay.

12 BY MR. NOVAK:

13 Q. I would like to direct your attention to the
14 third page of Anda - Cochrane Deposition Exhibit
15 Number 3 that states or sets forth circumstances that
16 might be indicative of diversion. And there are a
17 series of factors that are set forth in the
18 Rannazzisi letter of 2006.

19 Have you reviewed these different factors
20 before?

21 MR. MATTHEWS: Objection.

22 THE WITNESS: Not that I remember, no.

23 BY MR. NOVAK:

24 Q. Okay. By the way, for purposes -- and we'll

1 set the letter to the side for the moment.

2 For the purposes of performing your
3 responsibilities as executive director of regulatory
4 compliance or the prior position of director of
5 regulatory compliance, how did you prepare yourself
6 for becoming aware of what different regulatory
7 obligations as it related to controlled substance
8 were?

9 A. We were active HDMA members. I worked for
10 Jay Spellman for a number of years before moving
11 under Dan Movins, who was also somebody who was in
12 the industry for a substantial amount of time. I
13 don't know if you would call them my mentors, but I
14 worked with them for long periods of time.

15 Q. Okay. You made reference to HDMA membership?

16 A. Yes.

17 Q. Were there conferences that you would go to
18 that were sponsored by HDMA or other organizations?

19 A. There were a couple, yeah.

20 Q. And those conferences gave you training on
21 what different factors were -- that assisted you in
22 the performance of your responsibilities as it
23 related to controlled substances?

24 A. Yeah.

1 Q. Okay. Do you recall the Rannazzisi letters
2 being identified at those conferences as articulating
3 some of the things that you would evaluate for
4 determining whether particular customers of Anda
5 should be eligible to buy controlled substances?

6 A. I don't remember them specifically being at
7 conferences dating back that far.

8 Q. Okay. Let's go through some of the
9 circumstances that are identified in Anda - Cochrane
10 Deposition Exhibit 3 on the third page.

11 And the heading states: "Circumstances that
12 might be indicative of diversion."

13 And the first one articulated there is:
14 Ordering excessive quantities of a limited variety of
15 controlled substances (e.g., ordering only
16 phentermine, hydrocodone, and alprazolam) while
17 ordering few, if any, other drugs.

18 Do you see that reference?

19 A. Yeah.

20 Q. Is that one of the factors that Anda
21 evaluated in making a determination as to whether a
22 particular controlled substance customer of the
23 company should be authorized to receive controlled
24 substances?

1 A. Yeah.

2 Q. Okay. When was it that Anda began to
3 evaluate the quantity of controlled substances as
4 compared to other drugs?

5 A. 2005, maybe.

6 Q. Okay. Now, in order to make that evaluation,
7 Anda would need to review both what they were
8 ordering in terms of controlled substances and also
9 what they were ordering for noncontrolled substances,
10 correct?

11 A. Yeah. But I don't remember if we were doing
12 a specific comparison back in 2005.

13 Q. Okay. That might have come later?

14 A. I think -- I believe it did.

15 Q. Okay. In fact, I think I'll go to a
16 different document and then come back to this one.

17 A. Okay.

18 (Anda - Cochrane Exhibit 4 was marked for
19 identification.)

20 BY MR. NOVAK:

21 Q. We've had marked as Anda - Cochrane
22 Deposition Exhibit 4 the supplemental responses to
23 plaintiff's first combined discovery request
24 distributed to defendants.

1 And I wanted to direct your attention,
2 Mr. Cochrane, specifically to Page 9 of the exhibit
3 that has a chart of standard operating procedures.

4 Do you see that chart?

5 A. Yup.

6 Q. Okay. Now, one of the standard operating
7 procedure numbers is customer due diligence formerly
8 known as information needed to set up a new account,
9 and it's SOP Number 28.

10 Do you see that reference?

11 A. I do.

12 Q. Okay. Were you familiar in how SOP 28 worked
13 during your time at the company?

14 A. I believe so, yeah.

15 Q. Okay.

16 (Anda - Cochrane Exhibit 5 was marked for
17 identification.)

18 BY MR. NOVAK:

19 Q. We have had marked as Anda - Cochrane
20 Deposition Exhibit 5, Deposition Exhibit 5 a document
21 that is entitled "Distribution of Rations," SOP 28,
22 and the title is "Customer Due Diligence." It bears
23 the Bates Number Anda 144398 through 144401.

24 Mr. Cochrane, have you seen Deposition

1 Exhibit 5 Before?

2 A. Yes.

3 Q. Now, looking at the last page of Deposition
4 Exhibit 5, there's a chart that makes reference to
5 revision history and the date of various times when
6 the standard operating procedure is either issued or
7 reviewed or modified.

8 Is that a fair characterization?

9 A. Yeah.

10 Q. Okay. Is this particular version of SOP 28
11 the version that existed on February 26th of 2018?

12 A. I don't -- I wasn't there.

13 Q. Okay. So --

14 A. I left in '16.

15 Q. So the versions of the document that were
16 effective during the time that you were there were
17 different than Deposition Exhibit 5?

18 A. I -- I don't know.

19 Q. Okay. Well, to the extent that there were
20 modifications to the document added in February of
21 2018 that are contained in this exhibit, you're not
22 aware of what those are, correct?

23 A. No. I -- I don't --

24 Q. Okay.

1 A. This is the first time I'm seeing this for
2 several years.

3 Q. Let me go back, since Deposition Exhibit 5
4 makes reference to the original version having an
5 effective date of August 20th of 2004, to see if we
6 can identify that one.

7 (Anda - Cochrane Exhibit 6 was marked for
8 identification.)

9 BY MR. NOVAK:

10 Q. We have had marked for identification
11 purposes Anda - Cochrane Deposition Exhibit 6, which
12 is a document entitled -- or bearing the Bates
13 Number Anda 271410 through 411.

14 On the first page, it is entitled "SOP
15 Number 28," "Information Needed to Set Up a New
16 Account."

17 And then the second page actually describes
18 the standard operating procedure itself.

19 Mr. Cochrane, is this the version of the
20 document that would have been in existence back in
21 August of 2004?

22 A. I believe so, yes.

23 Q. Okay. And you are, on the first page of the
24 document, identified in compliance management, and

1 then it says signed by Michael Cochrane and
2 identifies you as a reviewer.

3 Would you have reviewed SOP 28 back in August
4 of 2004?

5 A. Yeah.

6 Q. Okay. And do these set out the steps that
7 are necessary, in particular Page 2, the steps that
8 were necessary in order to set up a new account for
9 an Anda customer?

10 A. Yeah.

11 Q. Okay. And those steps are set forth under
12 Section 3 of the SOP?

13 A. Yes.

14 Q. So in order to set up a new account, Anda
15 would need to obtain the pharmacy licenses,
16 physicians' licenses, or wholesale distributor
17 licenses in order to ship noncontrolled substances.

18 Is that the first obligation?

19 A. Yes.

20 Q. And the second one is if a customer is
21 wishing to purchase controlled substances, that above
22 information is needed as well as a copy of the
23 customer's DEA registration?

24 A. Yes.

1 Q. So they have to provide that in order to be
2 eligible to buy controlled substances from Anda?

3 A. Yes.

4 Q. Okay. And that DEA registration has to match
5 exactly with the address that's listed on the
6 license?

7 A. Yup.

8 Q. Okay. The next thing they have to do is
9 update their license and provide proof of the updated
10 license to the regulatory compliance department?

11 A. Yes.

12 Q. And, finally, if there's a chain of stores,
13 they can provide a spreadsheet of the different
14 licenses for each store in order to show that each of
15 those different stores within the chain are
16 individually licensed to purchase controlled
17 substances?

18 A. Yes.

19 Q. Okay. As of this time in 2004, were those
20 the steps necessary to have a customer become
21 authorized to purchase controlled substances from
22 Anda?

23 A. Yes.

24 Q. Okay. At a later point in time, Anda added

1 other steps.

2 MR. MATTHEWS: Objection.

3 BY MR. NOVAK:

4 Q. Correct?

5 MR. MATTHEWS: Objection.

6 THE WITNESS: Yes.

7 BY MR. NOVAK:

8 Q. And if we go back to Anda Deposition
9 Exhibit 5 -- Anda - Cochrane Deposition Exhibit 5,
10 there is a reference to -- in the revision history of
11 Standard Operating Procedure 28 to an addition to
12 SOP 28 that was made in March 9th of 2007.

13 Do you see that reference?

14 A. Yeah.

15 Q. Would that reflect an additional step that
16 was required by Anda in the performance of -- or in
17 implementing SOP 28 that it would have been required
18 starting in March of '07?

19 Would it be more helpful if I showed you what
20 I think might be the March of '07 version?

21 A. Sure.

22 Q. Okay.

23 (Anda - Cochrane Exhibit 7 was marked for
24 identification.)

1 THE WITNESS: This is a different -- this
2 isn't 28. This is 40.

3 MR. NOVAK: Oh, sorry, sorry, sorry.

4 MR. MATTHEWS: Do you want to take that back?

5 MR. NOVAK: Did we already have it marked?

6 Well, we'll leave it as 7.

7 MR. MATTHEWS: Okay. And let me see if I can
8 find the --

9 MR. NOVAK: Was it 7 or 6?

10 MR. MATTHEWS: The court reporter is the best
11 official --

12 MR. NOVAK: The best evidence.

13 MR. MATTHEWS: -- of where we are. I will
14 often get it wrong, as you know.

15 MR. NOVAK: Why don't we take five minutes.

16 THE VIDEOGRAPHER: Off the record at 10:12.

17 (Recess from 10:12 until 10:34 a.m.)

18 THE VIDEOGRAPHER: We are now back on the
19 record at 10:34.

20 BY MR. NOVAK:

21 Q. Mr. Cochrane, there were two documents that I
22 want to walk you through that are kind of -- I think
23 it would be helpful to do them side by side.

24 One is the Rannazzisi letter of

1 September 27th of 2006, which is Anda - Cochrane
2 Deposition Exhibit Number 3. And the other one is
3 Standard Operating Procedure 28, just the first page
4 of it, Anda - Cochrane Deposition Exhibit Number 5.

5 Now, first looking at Deposition Exhibit 5,
6 Standard Operating Procedure 28, there was a point in
7 time when Anda started requiring that customers for
8 controlled substances provide a completed customer
9 questionnaire, correct?

10 A. Yes.

11 Q. And also 90 days of prior dispense data?

12 A. Yes.

13 Q. And also the procedures that the customer
14 utilizes to review and determine whether to fill
15 controlled substance prescriptions?

16 A. Yes.

17 Q. And all of that is material that the
18 regulatory staff that worked under you would review
19 for purposes of deciding whether to sell controlled
20 substances, correct?

21 A. Yes.

22 Q. Now, when we look at Anda - Cochrane
23 Deposition Exhibit 3, the third page of it, a number
24 of the different factors that are identified there

1 under "Circumstances That Might Be Indicative of
2 Diversion" make reference to an analysis of what is
3 being dispensed from the -- from the retailer.

4 Is that a fair characterization?

5 MR. MATTHEWS: Objection.

6 THE WITNESS: Yeah.

7 BY MR. NOVAK:

8 Q. Okay. So, for example, you wouldn't be able
9 to determine whether a retailer was ordering
10 excessive quantities of a limited variety of
11 controlled substances while ordering few, if any,
12 other drugs without -- well, actually, I won't ask
13 about that one.

14 But an additional factor, the other Number 1
15 on that page, is the percentage of the pharmacy's
16 business that dispensing controlled substances
17 constitutes.

18 You wouldn't be able to figure that out
19 unless you had the retailer's dispensing data,
20 correct?

21 MR. MATTHEWS: Objection.

22 THE WITNESS: Yeah.

23 BY MR. NOVAK:

24 Q. And some of these other factors -- for

1 example, the disproportionate share of the
2 prescriptions for controlled substances being filled
3 by the pharmacy -- again, you need the dispensing
4 data for that to figure out whether there was a
5 disproportionate share being dispensed by the
6 retailers?

7 THE WITNESS: Yes.

8 MR. MATTHEWS: Objection.

9 BY MR. NOVAK:

10 Q. In fact, a whole array of those different
11 factors that the FDA identifies really require you to
12 have a good set of dispensing data from your customer
13 in order to evaluate them.

14 Is that -- is that a fair characterization?

15 MR. MATTHEWS: Objection.

16 THE WITNESS: Yes. You mean the DEA, not the
17 FDA.

18 MR. NOVAK: Thank you.

19 BY MR. NOVAK:

20 Q. With that qualification, it's a fair
21 characterization?

22 MR. MATTHEWS: Objection.

23 BY MR. NOVAK:

24 Q. Correct?

1 A. Yes.

2 Q. And at some point, Anda started collecting
3 the customer or potential customer's dispensed data
4 to evaluate the different factors that are identified
5 on Page 3 of Anda - Cochrane Deposition Exhibit 3,
6 the Rannazzisi letter, correct?

7 A. Yes.

8 Q. When was it that Anda began collecting
9 dispensed data from its customers for performing that
10 type of review?

11 A. Sometime in 2007.

12 Q. Okay. What was it --

13 A. It may have been early 2007, I think.

14 Q. Okay.

15 A. Maybe mid.

16 Q. And what was it that caused Anda to change
17 its policy to begin collecting and reviewing that
18 type of information?

19 MR. MATTHEWS: I'm going to object to the
20 question and instruct the witness not to answer
21 to the extent answering that question requires
22 you to reveal communications between the company
23 and you and any company attorney, whether inside
24 or outside.

1 To the extent you can answer without
2 revealing any such conversations, you can answer
3 the question.

4 THE WITNESS: I honestly don't remember.

5 BY MR. NOVAK:

6 Q. Okay. At any rate, you think it was '07 when
7 the company started, as a matter of policy,
8 collecting dispensed data --

9 A. Yes.

10 MR. MATTHEWS: Objection.

11 BY MR. NOVAK:

12 Q. -- to determine whether they were going to
13 sell controlled substances to particular customers?

14 MR. MATTHEWS: Objection.

15 THE WITNESS: I don't -- I think we were
16 going after existing customers at that point in
17 time that were already doing business with us and
18 collecting questionnaires and collecting
19 dispensing data as well as for newer customers.

20 BY MR. NOVAK:

21 Q. Okay.

22 (Anda - Cochrane Exhibit 8 was marked for
23 identification.)

24 ///

1 BY MR. NOVAK:

2 Q. We've had marked as Anda - Cochrane
3 Deposition Exhibit Number 8 a two-page document
4 bearing the Anda Bates Number 276963 and 4.

5 And it appears to be a version of Standard
6 Operating Procedure 40 entitled "Controlled Substance
7 Monthly Override Percentage."

8 Mr. Cochrane, have you seen Anda Deposition
9 Exhibit 8 before?

10 A. Yes.

11 Q. Are you the author of Anda Deposition
12 Exhibit 8?

13 A. I am.

14 Q. Okay. Now, the date that is contained under
15 the originator box of the document is July 27, '07.

16 Is that the approximate date that you created
17 this standard -- this version of Standard Operating
18 Procedure 40?

19 A. Yes.

20 Q. Okay. Before we get into the actual
21 procedure, can you describe for me what the
22 circumstances were that led you to create Standard
23 Operating Procedure 40 as it is set out in Anda
24 Deposition Exhibit 8?

1 A. This was -- I'm not sure if we had a meeting
2 with DEA, but we set a cap at 5,000 dosage units on
3 controlled substance products. And that was at the
4 guidance of DEA, I believe in Washington, and we had
5 some instances where we would have accounts that
6 would actually require more than 5,000 dosage units,
7 so we would do a review of those accounts to
8 determine whether or not we wanted to increase them
9 above 5,000.

10 Q. Okay. And your testimony is that it was the
11 DEA who made the suggestion to set a 5,000 dosage
12 unit cap?

13 A. Yes, I believe they did suggest that in 2007.

14 Q. Okay. Who at the DEA made that suggestion?

15 A. Michael Mapes, Kyle Wright. I'm not sure who
16 else was there for that meeting.

17 Q. Okay. And you're talking about a specific
18 meeting that occurred in July of 2007?

19 A. I don't remember the exact date of the
20 meeting, but I'm pretty sure it was in 2007, yeah.

21 Q. Who all attended the meeting?

22 A. It was me, Al Paonessa, Tracey Hernandez,
23 Dianne Miranda, Michael Mapes, Kyle Wright, Barbara
24 McGrath. Maybe a couple of other folks from DEA. I

1 don't remember their names.

2 Q. Okay. Ms. McGrath, where was she from?

3 A. She was the Florida diversion program

4 manager.

5 Q. At DEA?

6 A. Yeah.

7 Q. Okay. Who was Tracey Hernandez?

8 A. Tracey Hernandez was a DEA compliance person

9 for Watson -- Watson Pharma.

10 Q. Okay. At the time, Watson owned Anda?

11 A. Yes.

12 Q. Okay. Did Ms. Hernandez sometimes give you

13 instruction about the performance of your

14 responsibilities at Anda?

15 A. No, not specifically that I can remember.

16 Q. You don't remember her ever providing

17 guidance on how compliance functions at Anda should

18 be performed?

19 A. Yeah, I'm sure we discussed it since she was

20 part of the same organization. I don't remember

21 anything specific, though.

22 Q. Okay. What do you remember about this

23 July 2007 meeting with the DEA representatives, the

24 Watson representatives, and the Anda people?

1 MR. MATTHEWS: Objection.

2 THE WITNESS: I think Michael Mapes reached
3 out to Tracey Hernandez inquiring about Anda and
4 whether or not Watson owned Anda. From there,
5 she explained that through an acquisition we were
6 part of Watson at that point, and he wanted us to
7 all come up and discuss controlled substance
8 distribution.

9 BY MR. NOVAK:

10 Q. Did Mr. Mapes or any of the other DEA
11 representatives express concern about the manner in
12 which Anda had been distributing controlled
13 substances prior to the time of the meeting?

14 MR. MATTHEWS: Objection.

15 THE WITNESS: Yeah.

16 BY MR. NOVAK:

17 Q. What particularly did he express concern
18 about?

19 A. Some specific customers that Anda had that we
20 were distributing product to.

21 Q. Do you recall which customers?

22 A. I don't.

23 Q. Okay. And what was it about your
24 distribution to those customers that DEA was

1 concerned about?

2 A. Pretty sure it was the quantity of certain
3 products.

4 Q. Okay. From DEA's perspective, they were
5 concerned that Anda was providing too large a
6 quantity of controlled substances to particular
7 customers?

8 A. Yes.

9 MR. MATTHEWS: Objection.

10 BY MR. NOVAK:

11 Q. And what types of quantities was he
12 identifying?

13 MR. MATTHEWS: Objection.

14 THE WITNESS: I don't remember the exact
15 numbers.

16 BY MR. NOVAK:

17 Q. Okay. Did he identify a particular customer
18 for whom Anda was providing 279,000 units of
19 hydrocodone?

20 MR. MATTHEWS: Objection.

21 THE WITNESS: I don't remember that
22 specifically.

23 MR. NOVAK: Okay. How about 179,000 units of
24 hydrocodone to a different customer?

1 MR. MATTHEWS: Objection.

2 THE WITNESS: I don't remember that number
3 specifically either.

4 BY MR. NOVAK:

5 Q. Were those -- irrespective of whether you
6 recall the exact number, were those the rough numbers
7 that were being communicated by Mr. Mapes to the Anda
8 representatives at the meeting?

9 MR. MATTHEWS: Objection.

10 THE WITNESS: I -- I don't remember specific
11 numbers.

12 BY MR. NOVAK:

13 Q. I understand you don't remember specific
14 numbers. But were they in that ballpark?

15 MR. MATTHEWS: Objection.

16 THE WITNESS: I don't remember.

17 BY MR. NOVAK:

18 Q. Okay. You don't remember at all the volume
19 or the quantity --

20 A. I don't remember if it was 50,000 or 300,000.

21 Q. All right. At any rate -- well, let me ask a
22 different question.

23 Were you aware of the Southwood Compliance
24 Action that DEA had taken back in the summer of 2007?

1 A. I believe I was, yes.

2 Q. Okay. And what was your understanding as to
3 what the DEA did as it related to Southwood?

4 A. I don't remember if they fined Southwood or
5 issued an immediate suspension, but it was something
6 along those lines, I believe.

7 Q. Okay. As part of the performance of your
8 responsibilities at Anda, you tried to keep abreast
9 as to what DEA was doing from an enforcement
10 perspective against other distributors, correct?

11 A. Yeah. The whole industry did.

12 Q. And Southwood was a particular action that
13 the DEA took that got the attention of the rest of
14 the industry?

15 MR. MATTHEWS: Objection.

16 THE WITNESS: Yeah.

17 BY MR. NOVAK:

18 Q. Okay. Why?

19 A. Because they either fined them or issued an
20 immediate suspension. I don't remember the exact
21 circumstances for Southwood, given the fact that it
22 was that long ago.

23 Q. Sure.

24 A. But it was -- it was an issue that the

1 industry all knew of.

2 Q. What was it that Southwood was doing that was
3 of concern?

4 MR. MATTHEWS: Objection.

5 THE WITNESS: I don't remember.

6 BY MR. NOVAK:

7 Q. Okay. Was there also pending enforcement
8 action by DEA against AmerisourceBergen?

9 MR. MATTHEWS: Objection.

10 THE WITNESS: I'm not sure.

11 BY MR. NOVAK:

12 Q. You don't recall whether that was brought up
13 by Mr. Mapes or some of the other DEA representatives
14 at this meeting in July of '07?

15 MR. MATTHEWS: Objection.

16 THE WITNESS: Yeah, I don't remember them
17 bringing that up.

18 BY MR. NOVAK:

19 Q. Okay. Do you remember them bringing up --
20 (Conferring with co-counsel.)

21 MR. NOVAK: We're going off the record.

22 THE VIDEOGRAPHER: Off the record at 10:51.

23 (Recess from 10:51 until 11:18 a.m.)

24 THE VIDEOGRAPHER: We're now back on the

1 record. The time is 11:18.

2 BY MR. NOVAK:

3 Q. Mr. Cochrane, you had provided deposition
4 testimony earlier today that related to your bonuses
5 that were paid to you during your time as an employee
6 at Anda, and just so I get an understanding as to
7 what the amounts that we're talking are, if I recall

■ [REDACTED]

■ [REDACTED]

10 A. Throughout my tenure there, yeah.

11 Q. Okay. And what was your base compensation
12 towards the end of your career there?

13 A. My base was [REDACTED] approximately annually.

14 Q. Okay. When you started with the company --
15 or, yeah, actually -- yeah, when you started with the
16 company, what do you recall your base compensation
17 being?

18 A. My base compensation when I started in 1997
19 was [REDACTED] an hour.

20 Q. Okay. And during the time period from 2006
21 forward, do you have a rough number as to what it
22 grew from '06 through 2016?

23 MR. MATTHEWS: Objection.

24 THE WITNESS: I'm not sure what it was in

1 '06. I want to say -- '06 was maybe in the -- in
2 the [REDACTED] range.

3 BY MR. NOVAK:

4 Q. Okay. On the -- in the latter years, once
5 Watson or Actavis or Allergan owned Anda, what were
6 the amounts of the actual bonus payments in those
7 years?

8 MR. MATTHEWS: Objection.

■ [REDACTED] [REDACTED]

■ [REDACTED] [REDACTED]

11 BY MR. NOVAK:

12 Q. Okay. And those were based upon both the
13 financial performance of those companies as well as
14 the financial performance of Anda?

15 A. Yeah.

16 Q. Did you receive bonuses every year from '06
17 through '16?

18 A. Pretty sure I did.

19 Q. Okay. Did -- when you -- by the way, are
20 there any documents -- never mind.

21 When you initially started in the 2005 and
22 '06 time frame, in the performance of your regulatory
23 compliance functions at the company, did Anda have a
24 number of physician customers to whom they sold

1 controlled substances?

2 A. Yes.

3 Q. Okay. How many, if you know?

4 A. I don't know.

5 Q. Hundreds, thousands?

6 A. Probably somewhere in the thousands, I would
7 think.

8 Q. Okay. How was it that Anda would establish a
9 relationship directly with physician customers for
10 controlled substances?

11 MR. MATTHEWS: Objection; foundation.

12 THE WITNESS: We had a specific group of
13 sales reps that were dedicated to physician
14 accounts.

15 BY MR. NOVAK:

16 Q. They would actually visit their physician
17 offices?

18 A. No, no. It was all over the phone.

19 Q. Okay. They'd actually issue cold calls to
20 physicians' offices?

21 A. I believe they would.

22 Q. Okay. And inquire as to whether they were
23 interested in opening account to purchase controlled
24 substances?

1 MR. MATTHEWS: Objection.

2 THE WITNESS: I don't think the lead-in was
3 controlled substances. The lead-in was to
4 establish a business relationship. There are
5 numerous other products that a physician's office
6 would have been able to purchase through us.

7 BY MR. NOVAK:

8 Q. And many of them would also purchase
9 controlled substances?

10 MR. MATTHEWS: Objection.

11 THE WITNESS: I'm not sure what the
12 percentage was.

13 BY MR. NOVAK:

14 Q. Okay. Was part of your regulatory compliance
15 function an evaluation of the appropriateness of
16 physician purchases of controlled substances?

17 MR. MATTHEWS: Objection.

18 THE WITNESS: Eventually, we ended up
19 discontinuing sales to physician customers as far
20 as controlled substances. I'm not sure what
21 evaluation process there was dating that far back
22 on the -- on the physician side.

23 BY MR. NOVAK:

24 Q. Okay. You don't recall doing anything in

1 particular to evaluate whether a physician should be
2 able to buy the controlled substances that Anda was
3 selling them?

4 A. It goes back to one of the SOPs from
5 origination and establishing a new account, DEA
6 license, state license, exact addresses.

7 Q. The different steps that are set forth in
8 Standard Operating Procedure 28?

9 A. Yes.

10 Q. Okay. Anda wouldn't perform any detailed
11 review of the product mix that the physician was
12 purchasing?

13 MR. MATTHEWS: Objection.

14 THE WITNESS: Not that I recall, no.

15 BY MR. NOVAK:

16 Q. Okay. And were there instances where Anda
17 would receive notifications from the DEA that other
18 distributors had decided to cut off particular
19 physicians?

20 A. Yeah. It wasn't limited to just physicians.
21 It was physicians and pharmacies, I believe.

22 Q. Okay.

23 (Anda - Cochrane Exhibit 9 was marked for
24 identification.)

1 BY MR. NOVAK:

2 Q. We've had marked as Anda - Cochrane
3 Deposition Exhibit 9 a document, the title page of
4 which is an e-mail from Lorrie Trotman to Michael
5 Cochrane dated November 7, 2007, but there's a full
6 number of e-mail threads that are attached to the
7 document. And it bears the Bates Number Anda 38787
8 through 38794.

9 And I'll direct you first to the last three
10 pages of the document. We'll start at the back and
11 go forward.

12 This appears to be an e-mail from Kyle
13 Wright -- if you look at the page that ends in the
14 Bates Numbers 792, an e-mail from Kyle Wright
15 entitled "Distributor Notification."

16 Do you see that?

17 A. Uh-huh.

18 Q. And then under that is a list of different
19 entities that the DEA identifies have had their
20 controlled substances privileges discontinued from
21 another distributor.

22 Is that a fair characterization?

23 A. Yup.

24 Q. Okay. So the DEA would send lists of a

1 number of physicians -- and in this instance also a
2 few retail pharmacies -- and basically tell Anda,
3 just for information purposes, other distributors
4 have discontinued or restricted the business with
5 these customers?

6 MR. MATTHEWS: Objection.

7 THE WITNESS: Yes. This wasn't just limited
8 to Anda. This was industry-wide, from what I
9 understand.

10 BY MR. NOVAK:

11 Q. They would send these notifications not only
12 to Anda but all the distributors who were evaluating
13 whether they wanted to do business with particular
14 customers?

15 A. Correct.

16 Q. When Anda received this type of information
17 back in the 2007 time frame, what would it do with
18 it?

19 A. We would restrict sales to them from a
20 controlled substance perspective.

21 Q. You would do that automatically --

22 A. Yes.

23 Q. -- or would you perform some additional
24 evaluation first?

1 A. Automatically.

2 Q. And as we look at the other e-mails going
3 back and forth up the chain, there were discussions
4 of the various folks within Anda about implementing
5 the process to cut these particular physicians and
6 other pharmacies off.

7 Is that fair?

8 A. Yeah.

9 Q. Okay. And in addition to that, there is some
10 discussion about whether, just from a logistical
11 perspective, you can eliminate them from the
12 cold-call list so that salespeople aren't placing
13 cold calls to physicians who have already had their
14 controlled substances privileges restricted?

15 A. Yes.

16 Q. Okay. You don't want to call and try to sell
17 to somebody who you have already decided you are not
18 going to sell to?

19 A. Correct.

20 Q. Now, were there instances where in this 2007
21 time frame Anda, on its own, had made decisions to
22 cut off particular physicians?

23 A. Not that I remember.

24 Q. Okay.

1 (Anda - Cochrane Exhibit 10 was marked for
2 identification.)

3 BY MR. NOVAK:

4 Q. We've had marked Anda - Cochrane Deposition
5 Exhibit 10, which is a two-page e-mail exchange
6 dated -- the top page of which is dated October 16th
7 of 2007, bearing the Bates page Anda -- or the Bates
8 stamp number Anda 274531 and 532.

9 Now, looking at the back of the exhibit,
10 this, again, is a notification from Kyle Wright at
11 the Drug Enforcement Administration notifying Anda
12 that particular customers have been cut off by
13 another distributor.

14 Is that what the document appears to be?

15 A. Yes.

16 Q. Okay. And, again, this is something you
17 would receive and process a similar cutoff in terms
18 of Anda's doing business with these customers?

19 A. Yes.

20 Q. Now, in this particular instance, Al Paonessa
21 e-mails you on the 16th of October and says: Did we
22 have almost all these Florida accounts? Wow. They
23 sound familiar.

24 Do you see that?

1 A. I do.

2 Q. Okay. So at least Mr. Paonessa thought,
3 gosh, these folks that are getting cut off are folks
4 that he thinks are familiar because they are Anda
5 customers?

6 MR. MATTHEWS: Objection.

7 THE WITNESS: I'm not sure. I'm assuming he
8 sees something from the city and the state. They
9 all look local to Anda. But I'm not really a
10 hundred percent sure why he would have written
11 this.

12 MR. NOVAK: Okay.

13 THE WITNESS: Or why they would sound
14 familiar.

15 BY MR. NOVAK:

16 Q. Did Tracey Hernandez ever inquire as to why
17 Anda's suspicious order monitoring program weren't
18 picking up on these physicians and cutting them off?

19 MR. MATTHEWS: Objection.

20 THE WITNESS: Not that I recall, no.

21 BY MR. NOVAK:

22 Q. Did Ms. Hernandez give direction to you to
23 make sure that these customers were cut off?

24 MR. MATTHEWS: Objection.

1 THE WITNESS: Not that I remember, no. We
2 were already doing it if an e-mail came out from
3 Kyle like this. But I don't remember her
4 specifically saying Anda should do it or telling
5 us that we need to, but it looks like she was
6 clearly doing the same thing that we were.

7 (Anda - Cochrane Exhibit 11 was marked for
8 identification.)

9 BY MR. NOVAK:

10 Q. We've had marked next Anda deposition -- Anda
11 - Cochrane Deposition Exhibit 11, which is a two-page
12 document bearing the Bates Number Anda 276197 and
13 198, which, again, is -- oh, I'm sorry, there's also
14 a third page, 199, which is entitled "Distributor
15 Notification."

16 Now, this one includes an additional
17 instruction in the middle of the -- well, at the top
18 of the -- the bottom of the first page and the top of
19 the second page that appears to be from Tracey
20 Hernandez to various individuals, including you, at
21 Anda where she states: Larry, Mary and Michael,
22 Please make sure the entities noted below are not
23 authorized to receive controlled products.

24 Do you see that?

1 A. Yes, I do.

2 Q. Okay. So was this an instance where Tracey
3 was writing different individuals, including you, and
4 instructing you to make sure that the folks
5 identified by the DEA were not receiving controlled
6 substances?

7 A. Yes.

8 Q. Okay.

9 A. We were already doing the same thing, because
10 we were on Kyle's communication as well.

11 Q. Were there instances that Tracey asked about
12 whether you were finding these folks to begin with?

13 MR. MATTHEWS: Objection.

14 THE WITNESS: Not that I remember. But
15 reading this, apparently so.

16 BY MR. NOVAK:

17 Q. What part of it are you referring to?

18 A. The very top of the page.

19 Q. And that is the top of the front page of
20 Deposition Exhibit 11 where Ms. Hernandez writes to
21 you and says: Michael, did you guys cut them off as
22 a result of receiving Kyle's e-mail? If so, what are
23 we missing to not have picked them up prior?

24 And then she states in a parenthetical: Not

1 being critical. I realize some of this ends up being
2 more of a guess. Just trying to see if there is
3 anything else that we need to add to our SOM program.

4 End of parenthetical?

5 That's the part that you're referring to?

6 A. Yes.

7 Q. Okay. She makes a reference there to "our
8 SOM program."

9 What do you understand her to mean in writing
10 that to you?

11 A. She's referring to a suspicious order
12 monitoring program which we had in place. And based
13 on my e-mail to her, it looks like we actually cut
14 off some of the doctors before Kyle's e-mail came out
15 and had detected them. But I can't remember what my
16 response to her was back in -- in 2007.

17 If you go back down to the center section of
18 the page, one of my e-mails back to her says that we
19 cut off the ones below yesterday. The ones that is
20 are not listed below were cut off before Kyle's
21 e-mail.

22 Q. Okay. So these are the pharmacies and
23 physicians that were cut off as a result of Kyle's
24 e-mail?

1 MR. MATTHEWS: Objection.

2 THE WITNESS: That, yeah, but it looks --
3 based on what I'm reading, it looks like we cut
4 off some of the ones on his list prior to the
5 e-mail coming out. I'm not a hundred percent
6 sure on what detected us to do it, but clearly we
7 cut some of them off before Kyle sent out his
8 e-mail.

9 BY MR. NOVAK:

10 Q. Okay. Was there a concern at Anda in the
11 2007 time frame as to whether sales to physicians
12 directly from Anda of opioid products would
13 contribute to the diversion of opioid products?

14 MR. MATTHEWS: Objection.

15 THE WITNESS: Al -- Al and I were called up
16 to the Florida Department of Health at one point
17 to specifically discuss controlled substance
18 sales to physicians. So, yeah, there was a
19 concern.

20 And we met with the Department of Health at
21 their request in Tallahassee to talk about
22 potential drug diversion and physician sales.

23 BY MR. NOVAK:

24 Q. Okay. Who was that conversation with?

1 A. It was Al and I, and I'm not a hundred
2 percent sure who from the Department of Health was
3 there. It was the existing compliance manager for --
4 her name was Rebecca -- I can't remember her last
5 name -- and then one other gentleman.

6 Q. Okay. Did they express concern about the
7 volume of Anda's business selling opioids directly to
8 physicians?

9 MR. MATTHEWS: Objection.

10 THE WITNESS: Yes.

11 BY MR. NOVAK:

12 Q. What was it that they expressed concern about
13 specifically?

14 A. I think they identified the fact that
15 dispensing physicians were becoming more of a
16 problem. I'm not sure if it was an application flow
17 thing for them. There was a one-page document that a
18 physician could fill out to become a dispensing
19 physician or practitioner, and eventually, after
20 meeting with the Department of Health, we decided to
21 discontinue sales to physicians entirely as far as
22 controlled substances were concerned.

23 I don't remember the exact time frame of us
24 doing that, but it was sometime potentially around

1 2007 or 2008.

2 Q. In the course of performing your
3 responsibilities in the regulatory compliance areas
4 of Anda, did you become aware of particular employees
5 within Anda who were a concern to the company as it
6 related to overly aggressive sales of controlled
7 substances?

8 MR. MATTHEWS: Objection.

9 THE WITNESS: I believe there were a few
10 sales reps on the -- on the Anda side that
11 targeted specific physicians and groups,
12 specifically pain management clinics.

13 BY MR. NOVAK:

14 Q. What were the names of the employees that you
15 became aware of that were overly aggressive as it
16 related to those types of sales?

17 MR. MATTHEWS: Objection.

18 THE WITNESS: Oh, man. Maybe some of them --
19 maybe one with a first name of Raphael -- no --
20 last name Schaefer, maybe. And -- I can't
21 remember.

22 BY MR. NOVAK:

23 Q. Okay. How was it that you became aware of
24 Raphael Schaefer being overly aggressive in the

1 promotion of controlled substances to customers?

2 MR. MATTHEWS: Objection.

3 THE WITNESS: I don't remember. It could
4 have been just from 222 forms coming in since
5 it's a triplicate form that was required to even
6 be able to order those products. They're
7 serialized forms that are issued by the DEA to
8 registrants specifically for the ordering of
9 certain classes of product.

10 BY MR. NOVAK:

11 Q. Okay. Were there particular classes of
12 product -- or, I'm sorry. Different question.

13 Were there particular classes of trade --
14 I'll start over again.

15 Are you familiar with the term "classes of
16 trade" as it relates to different types of Anda
17 customers for controlled substances?

18 A. Yes, somewhat.

19 Q. Can you tell me what different classes of
20 trade were back in the 2007 time frame for opioids?

21 A. 2007, I would say physicians, retail
22 independents, there could have been some national
23 chains, potentially some repackagers, some
24 distributors.

1 Q. How about pain management clinics?

2 A. I'm not sure if they were under a specific
3 class of trade that was just labeled physician. I
4 don't remember there being a specific designation.

5 Q. How about Internet pharmacies?

6 A. Yeah, we had Internet pharmacies prior to
7 2004 or '05, I believe. We discontinued sales to
8 anybody that we identified as an Internet pharmacy, I
9 believe, in 2005.

10 Q. Did you have particular sales employees at
11 Anda who were identified by government regulatory
12 agencies as being part of the problem that was
13 created with Internet pharmacies?

14 MR. MATTHEWS: Objection.

15 THE WITNESS: The only one that comes to mind
16 is Doug Towle. I believe he is -- I believe the
17 Miami DEA office asked about him specifically.

18 BY MR. NOVAK:

19 Q. Okay. What did they -- what was -- first of
20 all, who in the Florida DEA office did you converse
21 with on that?

22 A. I do not remember. I remember they sent a
23 request that we ended up having to send to HR because
24 they wanted personnel information on him at one

1 point. I don't remember what year it was or who I
2 spoke to. At some point in 2005.

3 (Anda - Cochrane Exhibit 12 was marked for
4 identification.)

5 BY MR. NOVAK:

6 Q. We've had marked for identification purposes
7 Anda - Cochrane Exhibit 12, which is a one-page
8 e-mail bearing the Bates Number Anda 153642 dated
9 November 5, 2008.

10 This is an e-mail from Karen Martin to you.

11 A. This is from me to Karen Martin.

12 Q. Okay. So the -- the bottom part of the
13 e-mail is to Karen Martin from you?

14 A. Yes.

15 Q. The subject is [REDACTED]?

16 A. Yes.

17 Q. Okay. And you are inquiring as to what the
18 reason on file was for [REDACTED] being terminated
19 from Anda; is that correct?

20 A. Yes.

21 Q. Okay. Now, you wrote in your e-mail to
22 Ms. Martin: There is an Internet pharmacy trial
23 going on in New York and the defendant is claiming
24 that they are innocent because Anda sold him the

1 product and specific mention of [REDACTED], "the RX
2 King," was made, and there seems to be personal ties
3 between the two.

4 Do you see that reference?

5 A. I do.

6 Q. Okay. Did you have any understanding, either
7 based on your conversations or in your communication
8 with Ms. Martin, as to whether those were some of the
9 circumstances involved in [REDACTED] termination
10 from Anda in 2006?

11 A. No. I have no knowledge of this. This must
12 have been based on a phone call I received from an
13 attorney or someone in New York.

14 Q. Okay.

15 A. Then when I asked for the -- the actual
16 reason on file, I just wanted to make sure our
17 terminology from an HR perspective was on the same
18 page and I wanted the official reason that was in his
19 file.

20 Q. Okay. Had you had conversations with other
21 governmental regulatory individuals who identified
22 [REDACTED] as part of what caused the problem with
23 respect to the opioid epidemic in Florida?

24 MR. MATTHEWS: Objection.

1 THE WITNESS: No, not that I remember.

2 BY MR. NOVAK:

3 Q. Who is Emily Schultz?

4 A. She was an Anda employee that worked for me
5 in the compliance department.

6 (Anda - Cochrane Exhibit 13 was marked for
7 identification.)

8 BY MR. NOVAK:

9 Q. We've had marked as Anda - Cochrane
10 Deposition Exhibit 13 a two-page document that is an
11 e-mail from Emily Schultz to you bearing the Bates
12 Number Anda 133096 and 7 dated December 4 of 2011
13 regarding a DEA meeting.

14 Would you have received Anda - Cochrane
15 Exhibit 13 back in that December 2011 time frame from
16 Ms. Schultz?

17 A. Yes.

18 Q. And she was writing to you her notes from a
19 visit that the DEA's officers, Gayle Lane and
20 Susan Langston, had at your Anda facilities, correct?

21 A. Yes.

22 Q. And when they met with you in December of
23 2011, they identified [REDACTED] as, quote, one of
24 the main reasons Florida is in as big of a mess as

1 they are.

2 Do you see that reference?

3 A. Yes. This was the one I was referring to --

4 Q. Okay.

5 A. -- when you first asked the question.

6 Q. So this is when it was brought to your
7 attention that [REDACTED] sales efforts at Anda,
8 from the DEA's perspective, had caused a mess in the
9 state of Florida?

10 MR. MATTHEWS: Objection.

11 THE WITNESS: No, not specifically 2011. He
12 was termed a number of years before that. But he
13 specifically targeted Internet pharmacies prior
14 to -- to 2005 when we discontinued sales to -- to
15 those types of pharmacies.

16 BY MR. NOVAK:

17 Q. Okay. I'd like to go back now to Anda
18 Deposition Exhibit 8 -- Anda - Cochrane Exhibit 8.
19 And specifically I'll direct you to the second page
20 of the exhibit.

21 A. You said 8, right?

22 Q. Yes.

23 Now, these are the procedures that you
24 instituted for Anda around the time of -- or after

1 that July of 2007 meeting with the DEA where they had
2 expressed concern about Anda providing too large a
3 quantity of controlled substances to particular
4 customers, correct?

5 MR. MATTHEWS: Objection.

6 THE WITNESS: I believe so.

7 BY MR. NOVAK:

8 Q. Okay. So you set a cap of 5,000 units as
9 kind of the default amount that could be sold to Anda
10 customers at that time?

11 MR. MATTHEWS: Objection.

12 THE WITNESS: Yes, based on the
13 recommendation of Michael Mapes.

14 MR. NOVAK: Okay.

15 THE WITNESS: From DEA.

16 BY MR. NOVAK:

17 Q. And did you discuss how the 5,000 dosage unit
18 cap could be exceeded for particular customers?

19 A. With?

20 Q. With the DEA.

21 A. Yes. They understood there would be
22 instances where there are pharmacies that would
23 require more than 5,000 dosage units.

24 Q. Okay. What specifically was said on that

1 topic?

2 A. I don't remember exactly what was said. But
3 when we brought up 5,000 as a -- when they brought up
4 5,000 as a number, we did discuss the fact that there
5 would be pharmacies that actually would require and
6 need more than that, more than that specific
7 hard-fast number.

8 Q. Okay.

9 A. And they agreed.

10 Q. And did you discuss at all how you would
11 evaluate a particular pharmacy to make a decision as
12 to whether they should get more than 5,000 units of,
13 say, OxyContin?

14 A. Yeah. We specifically -- I want to say every
15 single approval over 5,000 had to be approved by --
16 by Al Paonessa, who was the president and chief
17 operating officer of Anda.

18 Q. Okay. So if a particular retail customer
19 wanted to buy more than 5,000 units of OxyContin, in
20 order to get their limit raised above that, you would
21 need to seek approval from Al Paonessa?

22 A. Correct. And we would collect information to
23 justify the actual increase.

24 Q. And the information that is collected is set

1 out in the procedure 3.0 --

2 A. Yes.

3 Q. -- that is contained on this page of Anda -
4 Cochrane Deposition Exhibit 8, correct?

5 A. Yes.

6 Q. So you would need to get a filled out
7 customer questionnaire from the -- the retailer who
8 was seeking to buy more than 5,000 units?

9 A. Yes.

10 Q. You would review a year-to-date file that
11 contained their purchase history?

12 A. Correct.

13 Q. The third step that is referenced as part of
14 your process to sell more than 5,000 units to a
15 retailer says: Check percentage of controlled
16 substance sales versus nonsubstance sales.

17 And then there are two capital letter things
18 that -- can you tell me what those are, the FPCUSDA
19 and the AGIDO6LIB?

20 A. Those are specific files on our warehouse
21 management system that you would use to look up that
22 information.

23 Q. Okay. So the controlled substance sales
24 would be the DEA?

1 A. Yes, in the library that's listed after it.

2 Q. When you say library --

3 A. Just where the specific information resides
4 in the system. It's just an identifier.

5 Q. Which system are we referring to?

6 A. Warehouse management system that we used,
7 called Turning Point Systems.

8 Q. So there is a file in the Turning Point
9 System that sets forth the amount of controlled
10 substance sales that Anda has to particular
11 customers?

12 A. There was at one point, yeah.

13 Q. And also a file that contains the total sales
14 to --

15 A. This would --

16 Q. -- to a particular customer?

17 A. Yeah, it could be total sales.

18 Q. Now, when it says check percentage of
19 controlled substance sales versus noncontrolled
20 substance sales, what percentage would lead Anda to
21 the conclusion, no, we're not going to raise their
22 cap above 5,000? Their percent of controls is too
23 high?

24 MR. MATTHEWS: Objection.

1 THE WITNESS: I don't remember the specific
2 numbering or percentage that we would have used
3 back then this long ago.

4 BY MR. NOVAK:

5 Q. Okay. Was it a hard and fast number that you
6 set or was it susceptible to judgment based on
7 Mr. Paonessa's view of the customer?

8 MR. MATTHEWS: Objection.

9 THE WITNESS: Susceptible to judgment from
10 the review perspective. It wasn't just
11 specifically number three that gave us a yes or a
12 no or whether or not they were going to increase
13 the customer.

14 There was a multitude of things. There were
15 different facets of information that we were
16 looking at to make that determination. And, yes,
17 they were judgmental.

18 BY MR. NOVAK:

19 Q. Okay. The fourth one, we haven't talked
20 about that one at all. Says: Using Sales Advantage
21 from the Anda Intranet review and print previous
22 three months of sales.

23 What does that mean?

24 A. It's a specific system tool that we had as

1 far as the business is concerned, just a portal of
2 some sort that we had from a -- it's just one of the
3 many systems that we used to run our -- to run the
4 business.

5 Q. Okay. And it would simply be a check of your
6 last three months of sales data for the customer?

7 A. Yeah. You can plug in specific information,
8 and it would generate a report that would show you
9 all of their sales for the previous three months.

10 Q. Okay. So for these customers that are
11 getting more than 5,000 units of OxyContin or --
12 well, let me step back. I'll ask a different
13 question.

14 When it says 5,000 dosage units of a
15 controlled substance family, what does controlled
16 substance family mean as it's being applied by Anda
17 in the standard operating procedure that you created
18 here?

19 A. It means all SKUs for a specific product name
20 regardless of manufacturer or strength are combined
21 into one single family. So hydrocodone would have
22 multiple SKUs in that same family.

23 Q. Okay. When you say SKUs, you are referring
24 to the term S-K-U?

1 A. Yes.

2 Q. And that is a specific storekeeper unit?

3 A. Yeah. It's a unit of measure.

4 Q. So you are adding up all of the different
5 sales of -- of different products that are all
6 related to, say, hydrocodone --

7 A. Correct.

8 Q. -- as one family?

9 A. Yes.

10 Q. Oxycodone would be a separate family?

11 A. Yes.

12 Q. What other opioid families would there be?

13 A. On the opioid side, I'm not sure. Every
14 specific chemical from a controlled substance
15 perspective had its own family. I don't remember
16 specifically which ones were opioids and which ones
17 weren't.

18 Q. Would morphine be a different family for
19 applying this standard operating procedure?

20 A. Yes, it would.

21 Q. How about fentanyl?

22 A. Yes, it would.

23 Q. We have identified four separate opioid
24 families. Is it conceivable that a retail customer

1 of Anda would be able to buy 4999 units in each of
2 those four separate policies before they had to worry
3 about complying with this standard operating
4 procedure?

5 MR. MATTHEWS: Objection.

6 PHONE: Objection.

7 THE WITNESS: Yeah, it was a different
8 family.

9 THE VIDEOGRAPHER: The time is 12:04. We are
10 going off the record.

11 (Recess from 12:04 until 12:10 p.m.)

12 (Anda - Cochrane Exhibit 14 was marked for
13 identification.)

14 BY MR. NOVAK:

15 Q. Mr. Cochrane, the next topic I'm going to go
16 into a little bit are some of the reports that were
17 provided by Anda to the DEA.

18 And in that regard, we have had marked Anda -
19 Cochrane Deposition Exhibit 14, the front page of
20 which is a -- an e-mail from Jay Spellman to
21 different individuals, and the subject of the e-mail
22 is "Excessive Order Reports November 2005."

23 Are these the type of e-mails that Jay
24 Spellman would send to DEA officials back in 2005

1 time frame?

2 A. Yes.

3 MR. MATTHEWS: Objection.

4 BY MR. NOVAK:

5 Q. Did you have an understanding as a result of
6 the performance of your responsibilities in
7 regulatory compliance as to what the purpose of an
8 Excessive Order Report was?

9 A. I don't specifically remember the excessive
10 one in detail. But, yeah, it looks like it went to
11 Joanne Chiavaro at DOJ, to me, Miguel Palma. He was
12 the DEA compliance manager after my role expanded.
13 And, yeah, Jay had been doing these reports years
14 prior to that, I believe.

15 Q. Okay. Are we able to actually switch to the
16 Excel spreadsheet?

17 MR. MATTHEWS: So, for the record, I'll note
18 my objection to using an electronic version of
19 the copy what is produced on the record as an
20 exhibit, but I assume that we're going to proceed
21 along the same arrangement we have had with these
22 kind of electronic documents that have been used
23 at depositions previously.

24 MR. NOVAK: Yes.

1 MR. MATTHEWS: Okay. Thank you.

2 MR. NOVAK: And I'll note for the record that
3 the spreadsheet that we're placing up on the
4 screen is identified as having been produced
5 in -- in native form on the second page of Anda -
6 Cochrane Exhibit 14 by Anda bearing the Bates
7 page 271896. The version we're looking at on the
8 screen is what was produced in native format.

9 BY MR. NOVAK:

10 Q. Now, in looking at this Excessive Order
11 Report, is it your understanding that it was
12 communicated to the DEA through these reports when
13 particular Anda customers were buying an excessive
14 amount of controlled substances?

15 MR. MATTHEWS: Objection.

16 THE WITNESS: Yeah.

17 BY MR. NOVAK:

18 Q. Okay.

19 A. It's a system-generated report. I'm not sure
20 what the formulas or calculations were to come up
21 with it.

22 Q. That was going to be my next question is: Do
23 you know what the basis upon which a determination
24 was made by Anda that the amounts being purchased

1 were excessive?

2 A. For this specific one, I don't. I don't
3 recall what the calculation or formula was.

4 Q. Okay. What system would have generated the
5 reports?

6 A. Our warehouse management system, Turning
7 Point Systems.

8 Q. Okay. So there was an automated function in
9 TPS that, on a monthly basis, would run the excessive
10 reports that were then submitted to the Drug
11 Enforcement Administration?

12 MR. MATTHEWS: Objection.

13 THE WITNESS: I don't think it was automated.
14 I think there were -- there was actual user
15 function to create them --

16 MR. NOVAK: Okay.

17 THE WITNESS: -- and generate them. It
18 wasn't just a standing auto-generated report.
19 There was a user interface to a certain extent.

20 BY MR. NOVAK:

21 Q. So there was someone at Anda who would
22 perform a query in the system that would generate the
23 report?

24 A. Yes.

1 Q. And that query would be based upon a
2 particular calculation of the customer's order that
3 would determine that it was excessive?

4 A. Yes.

5 MR. MATTHEWS: Objection.

6 BY MR. NOVAK:

7 Q. But as to how that calculation was performed,
8 you -- you don't know?

9 A. I don't remember, no.

10 Q. Okay. Do you have even a general
11 understanding as to how it was calculated that you
12 could provide?

13 A. On the Excessive Order Report, I don't -- I
14 don't -- I really don't remember what the calculation
15 was.

16 Q. Okay.

17 (Anda - Cochrane Exhibit 15 was marked for
18 identification.)

19 BY MR. NOVAK:

20 Q. We've had marked as Anda - Cochrane
21 Exhibit 15 a similar document sent by Jay Spellman,
22 only this one's dated July 2nd of 2007.

23 Mr. Cochrane, do you know if the manner of
24 gathering the Excessive Order Report changed between

1 November 2005 and June of 2007?

2 A. No, not that I -- not that I remember.

3 Q. Okay. So these were reports that were
4 submitted to the DEA on a -- on a monthly basis, at
5 least between the times of November of 2005 and June
6 of 2007?

7 A. I believe so, yes.

8 Q. Okay.

9 MS. RIGBERG: Is there a Bates Number for the
10 document?

11 MR. NOVAK: Oh, thanks for reminding me when
12 I forget. It was Anda MDL 13481 and 13482.

13 MS. RIGBERG: Thanks.

14 (Anda - Cochrane Exhibit 16 was marked for
15 identification.)

16 BY MR. NOVAK:

17 Q. We've had marked as Anda - Cochrane
18 Exhibit 16 a document, the front page of which is an
19 e-mail from Jay Spellman to various individuals at
20 Anda as well as individuals within the Drug
21 Enforcement Administration of the federal government.

22 The subject of the e-mail is "Suspicious
23 Orders Week Ending October 9th of 2005," and the
24 document is a three-page exhibit, the front page of

1 which bears the Anda Bates Number 271912. And then
2 the other two pages referenced documents that were
3 produced in native format bearing the Anda Bates
4 Numbers 271913 and 914.

5 Were you familiar, Mr. Cochrane, in the
6 performance of your responsibilities in regulatory
7 compliance with these types of suspicious orders week
8 reports that were sent to the DEA by Mr. Spellman?

9 A. Yes.

10 Q. And he routinely copied you on those reports
11 when he submitted them, correct?

12 A. Yeah.

13 Q. What was the purpose of sending a suspicious
14 orders week report to the DEA?

15 A. This specific report was any customer that
16 ordered 5,000 dosage units or more of a specific
17 product. He reported them to the local office as
18 suspicious.

19 Q. Did Anda have in place in 2005 a suspicious
20 order monitoring system?

21 MR. MATTHEWS: Objection.

22 THE WITNESS: We had a report that would --
23 that we would generate, and if the customer
24 ordered more than 5,000 dosage units, we reported

1 it to the local office as suspicious.

2 BY MR. NOVAK:

3 Q. Okay. Was there any analysis of those
4 particular customer's orders as part of the
5 evaluation as to whether it should be submitted to
6 the DEA as a suspicious order?

7 MR. MATTHEWS: Objection.

8 THE WITNESS: Not that I recall.

9 BY MR. NOVAK:

10 Q. Okay.

11 (Anda - Cochrane Exhibit 17 was marked for
12 identification.)

13 BY MR. NOVAK:

14 Q. We've had marked as Anda - Cochrane
15 Exhibit 17 a document that, again, is from Jay
16 Spellman to various individuals at the Drug
17 Enforcement Administration as well as Mr. Cochrane
18 and other individuals at Anda. This particular one
19 is dated August 6, 2007, and it bears the Bates
20 Number Anda 271616 through 271618.

21 Similar to Anda - Cochrane Exhibit 16, is
22 this also a Suspicious Order Report submitted by Anda
23 to the DEA?

24 A. Yes.

1 Q. Okay. And this one is for the period ending
2 August 5th of 2007?

3 A. Yes.

4 Q. Do you know if suspicious order reports in
5 this format were sent to the DEA after August 5th of
6 2007?

7 A. I don't remember specifically when we would
8 have stopped sending these.

9 Q. You did, at some point in time, stop sending
10 suspicious order reports in this format? And when I
11 say "this format," I mean the one that's set forth in
12 Anda - Cochrane Exhibit 17, correct?

13 A. Yes.

14 Q. Okay.

15 A. We -- we revamped the system and put the
16 5,000 dosage unit maximum from ordering perspective
17 in place at that point after discussions with -- with
18 DEA in 2007.

19 Q. Okay. So when --

20 A. Prior -- the prior reporting criteria was if
21 it exceeded 5,000 dosage units, we would report the
22 order to them.

23 Q. Okay. And once you instituted the policy of
24 restricting customers to 5,000 dosage units in July

1 of 2007, did that coincide with roughly the time that
2 you stopped sending the suspicious order reports in
3 this format?

4 MR. MATTHEWS: Objection.

5 THE WITNESS: I believe it would.

6 BY MR. NOVAK:

7 Q. Okay. And I'll represent to you this was the
8 last one we were able to find --

9 A. Okay.

10 Q. -- in this format.

11 So when the format for reporting suspicious
12 orders in this manner changed, what took its place?

13 A. The customer review process, the
14 questionnaires going out, the approval process for
15 more than 5,000 dosage units. We were capturing
16 dispense data at that point from -- from customers.

17 A slew of things, I would say.

18 Q. Now, after this report was submitted on
19 August 6th of 2007, did Anda continue to report
20 suspicious orders to the DEA?

21 A. I don't know that we had any suspicious
22 orders after making all of the changes that we did in
23 discussing things with -- with Michael Mapes,
24 Kyle Wright, the discussions they gave us on the

1 5,000 dosage unit cap as far as pharmacies were
2 concerned, the review process going forward.

3 We weren't sending them anything as far as an
4 Excel spreadsheet like this, where our criteria
5 before that was if it exceeded 5,000 dosage units we
6 would submit it as a suspicious order.

7 Q. By the way, for the suspicious order reports
8 that we have been reviewing in Anda Deposition
9 Exhibit -- Cochrane Deposition Exhibits 16 and 17 --
10 the actual orders that were being reported, were
11 those ones that Anda shipped?

12 A. Yes, they were.

13 Q. Okay. At some point in time did the
14 regulatory compliance program at Anda determine that
15 if they were going to report a suspicious order to
16 the DEA, they had better not ship it?

17 MR. MATTHEWS: Objection.

18 THE WITNESS: I don't remember exactly when
19 we instituted the no-ship policy. I want to say
20 it was sometime after 2010, potentially.

21 BY MR. NOVAK:

22 Q. So what happened with suspicious orders
23 between 2007 and 2010 when the no-ship policy was
24 implemented?

1 MR. MATTHEWS: Objection.

2 THE WITNESS: We were doing a more robust
3 review based on our communication and advice and
4 suggestions from the local DEA people, the
5 Washington DEA people, our meetings with them.

6 We worked together with them to develop a
7 more robust review process of customers that we
8 were selling to. We took their advice from a
9 threshold standpoint. We did a different review
10 process in the event they needed more than 5,000.

11 BY MR. NOVAK:

12 Q. In that answer, you stated: We took their
13 advice from a threshold standpoint.

14 When you say their advice, do you mean the
15 DEA?

16 A. I do. And the 5,000 dosage units on the
17 families and how we were categorizing products as far
18 as the families were concerned, the limits put in
19 place, these were all things that were discussed with
20 DEA.

21 Q. Now, in your view during that time period,
22 would it be possible for a suspicious order to be
23 placed by a customer with Anda that was less than
24 5,000 units --

1 MR. MATTHEWS: Objection.

2 BY MR. NOVAK:

3 Q. -- of a particular control family?

4 MR. MATTHEWS: Objection.

5 THE WITNESS: I guess anything is possible.

6 BY MR. NOVAK:

7 Q. Did Anda have in place policies to restrict
8 distribution of controlled substances other than what
9 we were looking at in Standard Operating Procedure 28
10 to suspend any orders of less than 5,000 units?

11 MR. MATTHEWS: Objection.

12 THE WITNESS: I do not believe we did, no.

13 MR. NOVAK: Okay. Why don't we stop there
14 for lunch.

15 THE VIDEOGRAPHER: Off the record at 12:31.

16 (Recess from 12:31 until 1:39 p.m.)

17 THE VIDEOGRAPHER: We're now back on the
18 record at 1:39.

19 BY MR. NOVAK:

20 Q. Mr. Cochrane, before I forget, are you
21 related to the other Mr. Cochrane who's in Anda?

22 A. I am.

23 Q. Okay. Brother?

24 A. Yup. He's my older brother.

1 Q. Patrick?

2 A. That's right.

3 Q. Just so we're clear.

4 Earlier today in testimony, you indicated
5 that one of the ways that you educated yourself on
6 compliance issues was to attend industry seminars.

7 And some of those were HDMA seminars?

8 A. Yeah.

9 Q. By the way, did you participate on any HDMA
10 committees?

11 A. I think I was on the DSCSA committee for
12 federal pedigree and maybe regulatory affairs
13 committee.

14 Q. Okay. What is it that the regulatory affairs
15 committee did?

16 A. They have, I think, quarterly conference
17 calls just regarding industry issues as far as
18 regulation changes. A lot of it, I think, was really
19 geared toward prescription drug pedigree because of
20 counterfeit products that were potentially out in the
21 marketplace and different states changing different
22 regs as far as that's concerned.

23 (Anda - Cochrane Exhibit 18 was marked for
24 identification.)

1 BY MR. NOVAK:

2 Q. We've had a document marked as Anda -
3 Cochrane Deposition Exhibit 18, which is a two-page
4 document produced from your custodial files bearing
5 the Bates Number Anda 280939, and the title of the
6 document is "Summary of the DEA HDMA meeting on
7 Suspicious Orders," meeting date September 7, 2007.

8 Was it the practice of HDMA at this time to
9 distribute to regulatory affair committee members,
10 such as yourself, minutes -- or documents like this
11 one?

12 A. Yeah.

13 Q. Okay. And would you in the course of your
14 responsibilities in regulatory compliance review them
15 for purposes of keeping yourself apprised of industry
16 developments?

17 A. Yes.

18 Q. And in particular, Anda Exhibit 18, I want to
19 refresh you to a couple different places in the
20 document. And this is in reference to a meeting that
21 took place between HDMA attendees and Drug
22 Enforcement Administration attendees.

23 First of all, can you tell me who these HDMA
24 are: Scott Melville, Anita Ducca, and David Durkin?

1 A. I don't remember Scott or David, but Anita
2 was one of the ones that would host conference calls
3 and attend things like this.

4 Q. Okay. She would also typically distribute
5 the meeting and conference materials related to these
6 types of events?

7 A. I believe -- I believe she did.

8 Q. Okay. Looking at the middle of the page on
9 the first page of Anda - Cochrane Exhibit 18, it
10 states: Key "take aways" from the meeting were --
11 and then has a couple bullet points.

12 The first bullet point under that is: DEA's
13 policy was to expect more than just reporting
14 "suspicious orders." If there was a suspicious
15 order, the distributor should either stop the
16 delivery or should evaluate the customer further
17 before delivering it.

18 You saw that reference?

19 A. I do.

20 Q. Is this one of the things that you understood
21 coming out of the meeting that you had with DEA
22 officials in July of 2007 that the expectation was
23 for suspicious orders, that the distributors should
24 either stop them before they were delivered or

1 evaluate the customer further before delivering the
2 order?

3 MR. MATTHEWS: Objection.

4 THE WITNESS: Yeah. But at this same time, I
5 mean, within this same year prior to this, we had
6 already begun the evaluation process from a
7 customer standpoint and we were actually doing it
8 for all of our customers, not just -- not just
9 waiting for an order to start the evaluation
10 process.

11 Our meeting consisted of them wanting us to
12 develop a due diligence process and investigate
13 who we have as customers as well as who we are
14 going to bring on as new customers.

15 BY MR. NOVAK:

16 Q. And that is -- that due diligence process
17 relates to the portion of this observation that's
18 talking about "should evaluate the customer before --
19 further before delivering it"?

20 A. For this -- in this instance here and at this
21 specific time, that's right around the same time that
22 we had made our 5,000 dosage unit limit for customers
23 based on some guidance we had received in a meeting
24 prior to this. We also started the customer

1 questionnaire process around this same point in time
2 as well.

3 So does that answer the question or --

4 Q. If I understand your testimony correctly,
5 it's that at this point in time Anda's process was to
6 perform the evaluations of customer orders that
7 exceeded 5,000 units of any particular controlled
8 substance family and the processes that you have
9 testified as it relates to that as Anda's method of
10 addressing potentially suspicious orders.

11 MR. MATTHEWS: Objection.

12 BY MR. NOVAK:

13 Q. Is that a fair characterization?

14 MR. MATTHEWS: Objection.

15 THE WITNESS: We were going after collecting
16 information from a due diligence perspective on
17 customers across the board, not only -- not
18 only -- not the only ones that were ordering
19 5,000 or more. If they needed 5,000 or more,
20 it's definitely something that we addressed prior
21 to increasing the limit.

22 But we had sent out questionnaires to our
23 entire controlled substance customer base to
24 gather information on them from a due diligence

1 perspective even if they were at 5,000 and not
2 above that.

3 BY MR. NOVAK:

4 Q. Okay. Going a little further down in this
5 paragraph, the take-aways from the meeting, it
6 states: The DEA criteria reflected in their
7 September 2006 letter to registrants was "for
8 background."

9 Do you understand the reference there to be
10 the Rannazzisi order -- or the Rannazzisi letter that
11 we were looking at earlier today from September of
12 2016?

13 A. September of 2006?

14 Q. Thank you.

15 September of 2006?

16 A. Yeah, I can see how that's . . .

17 Q. Okay. And then next, looking at the next
18 major heading from the HDMA meeting, "Additional
19 points DEA made included," and the second bullet
20 point there states: DEA provided examples of what a
21 wholesale distributor should do to know their
22 customers and what to look for. For example, they
23 mentioned inspecting pharmacies. They also mentioned
24 such actions as 'doing Google searches' to determine

1 if the pharmacy's name was affiliated with an
2 Internet site and getting information from the State
3 as to the nature and number of prior legal actions
4 against the pharmacy.

5 Do you see these references?

6 A. I do.

7 Q. Was Anda performing site inspections of
8 pharmacies at this time?

9 A. No.

10 Q. Had they incorporated into Standard Operating
11 Procedure 28 the Google search as part of the steps
12 that regulatory compliance personnel at Anda were
13 required to perform?

14 A. I do not believe so.

15 Q. How about gathering information from the
16 State?

17 A. We would gather State licensure as far as the
18 customer was concerned that was issued by the State.

19 Q. Okay. Going to the second page of Anda
20 Deposition Exhibit 18, the first bullet page -- or
21 bullet point on that page of the exhibit, starting
22 with DEA, states: DEA also does not want to receive
23 suspicious order reports that merely reflect volumes
24 that went over a threshold. They wanted reports that

1 are true -- quote/unquote, true suspicious orders.

2 Is that consistent with what you had learned
3 from your meeting with DEA officials in July of 2017?

4 MR. MATTHEWS: Objection.

5 BY MR. NOVAK:

6 Q. I'm sorry.

7 July of 2007?

8 MR. MATTHEWS: Objection.

9 THE WITNESS: Yeah. Our -- our -- our system
10 was a -- a threshold-based system, and we were
11 reporting orders that went over that threshold.

12 BY MR. NOVAK:

13 Q. The orders that we had looked at earlier
14 today, the suspicious --

15 A. Correct.

16 Q. -- orders and the excessive orders that were
17 being submitted by Spellman --

18 A. Correct.

19 Q. -- were examples of the types of reporting
20 that DEA no longer wanted?

21 A. Right, which is why we went on to send out
22 questionnaires to our customers, start the due
23 diligence process. We made specific limits in our
24 system from a 5,000 dosage unit perspective based on

1 that meeting as well.

2 And then when you go back and look at SOP
3 Number 40, there's a process for us to conduct more
4 of the review even above and beyond the due diligence
5 piece as far as the questionnaire was concerned to
6 decide whether or not they were going to raise them
7 above that 5,000 dosage unit threshold.

8 Q. Now, the next bullet point also states the
9 DEA also indicated that they were not going to make a
10 decision for the wholesale distributor as to when an
11 order was "suspicious." They feel this is up to the
12 distributor.

13 Is that consistent with the instruction that
14 you were receiving from DEA during this time frame?

15 MR. MATTHEWS: Objection.

16 THE WITNESS: They would never give us a
17 decision or any criteria on what they felt
18 constituted a suspicious order.

19 BY MR. NOVAK:

20 Q. So for purposes of constructing and operating
21 a suspicious order monitoring system program, how
22 that was ultimately constructed to determine if an
23 order was suspicious was up to you?

24 A. It was up to us as an organization, yes.

1 Q. Okay. That's all I have from that document.

2 (Anda - Cochrane Exhibit 19 was marked for
3 identification.)

4 BY MR. NOVAK:

5 Q. Next document that we have had marked is Anda
6 - Cochrane Deposition Exhibit 19, which is a blast
7 e-mail sent from Anita Ducca of HDMA to a number of
8 recipients. The Bates Number is Anda 194634 through
9 6.

10 First, this appears to be an e-mail that
11 Ms. Ducca is sending from HDMA as an update and for a
12 conference call -- well, cancellation notice to all
13 the regulatory affair committee members.

14 Is that your understanding as to what the
15 document is?

16 A. Uh-huh. Yup.

17 Q. And this is the type of document you received
18 back in September of '07 from Ms. Ducca?

19 MR. MATTHEWS: Objection.

20 THE WITNESS: I believe so.

21 BY MR. NOVAK:

22 Q. Okay. I want to draw your attention
23 specifically to the second page of the document, the
24 first bullet point up at the top, starting with on

1 suspicious orders, it states: On suspicious orders,
2 Mike Mapes of DEA gave a brief overview stressing the
3 idea that there was both a responsibility to report
4 suspicious orders but also a responsibility to take
5 steps to guard against diversion. Mike noted that in
6 the DEA's mind, this means that if an order is
7 suspicious, it shouldn't be shipped.

8 Is that consistent with what Mr. Mapes
9 conveyed to Anda representatives when you met with
10 him back in the July of 2007 meeting?

11 MR. MATTHEWS: Objection.

12 THE WITNESS: I don't remember him
13 specifically saying that in our meeting.

14 BY MR. NOVAK:

15 Q. Okay. Irrespective of whether he said it at
16 that meeting, are -- is this report something that
17 you would have read in your capacity as a regulatory
18 affairs member for HDMA?

19 A. Yes.

20 MR. MATTHEWS: Objection.

21 (Anda - Cochrane Exhibit 20 was marked for
22 identification.)

23 BY MR. NOVAK:

24 Q. We've had marked Anda Deposition Exhibit 20,

1 which is an e-mail sent from Tracey Hernandez to a
2 number of recipients, which apparently included
3 Mr. Cochrane. The subject of the e-mail is
4 "DEA/Industry Conference Report." It's dated
5 September of 2007, and the document bears the Anda
6 Bates Number 276207 through 212.

7 Mr. Cochrane, I -- first of all, is this an
8 e-mail that you would have received in the course of
9 your responsibilities at Anda back in September of
10 2007?

11 MR. MATTHEWS: Objection.

12 THE WITNESS: Yes.

13 BY MR. NOVAK:

14 Q. Okay. I'd like to direct your attention to
15 the page of the exhibit with the numbers 11 in the
16 bottom right-hand corner.

17 And specifically the area that I wanted to
18 direct your attention is where it says "DEA warning!"

19 Do you see that reference?

20 A. Yes.

21 Q. And it states, quote: Our next strategy
22 involves pain management clinics. Many are basically
23 pill mills. 'Take heed, distributors, and look at
24 these places.'

1 Were you hearing similar things from
2 government regulatory officials in the fall of 2007?

3 MR. MATTHEWS: Objection.

4 THE WITNESS: I can't remember.

5 Department of Health definitely brought it up to
6 us. I just don't remember when.

7 BY MR. NOVAK:

8 Q. Okay. How about industry officials? Were
9 other folks in the industry warning that the next
10 area that we should be looking at in terms of
11 distribution of opioid products are these Internet
12 distributors?

13 A. Internet distributors?

14 Q. I'm sorry. Pain management clinics?

15 A. When you -- when you say "other officials" --

16 Q. Other folks in the industry. For example,
17 other members of the regulatory affairs committee
18 that you sat on.

19 A. I don't remember off the top of my head.

20 Q. Okay. Was Anda, in this fall of 2007 time
21 frame, evaluating whether it should be more
22 restrictive on its sales of opioid products to pain
23 management clinics?

24 MR. MATTHEWS: Objection.

1 THE WITNESS: I don't remember specifically
2 back to 2007.

3 MR. NOVAK:

4 (Anda - Cochrane Exhibit 21 was marked for
5 identification.)

6 BY MR. NOVAK:

7 Q. We have had marked Anda Cochrane Deposition
8 Exhibit Number 21, which is a two-page e-mail thread
9 dated November 14 of 2007 bearing the Bates numbers
10 Anda 274287 through 288.

11 And it is comprised of a series of e-mail
12 relating to the modification of control thresholds
13 for a particular customer.

14 I want to direct your attention -- well,
15 before we actually talk about the exhibit, we were
16 now into a time frame for Anda where it was
17 implementing the Standard Operating Procedure 40 that
18 you had devised; is that correct?

19 A. Yes.

20 Q. And in particular the version of Standard
21 Operating Procedure 40 set a 5,000 unit limit for
22 each opioid product or other controlled substance
23 product, correct?

24 A. Yes.

1 Q. And Al Paonessa, the president of the
2 company, would have to sign off if you were going to
3 distribute more than 5,000 units to a particular
4 customer?

5 A. Yes.

6 Q. So on the bottom of the first page of Anda
7 Exhibit 21 -- well, let's, I guess, start at the
8 second page of the exhibit.

9 There is a request from Maria Alonzo to
10 Mr. Paonessa cc'ing both you and your brother,
11 Patrick Cochrane, where she requests that this
12 particular FMC customer receives an increase in the
13 threshold.

14 Is that a fair characterization?

15 A. Yes.

16 Q. Okay. And you reply saying: "Another one?
17 Thoughts?" with question marks.

18 A. That was -- okay. No.

19 Q. Is that what you wrote back in November of
20 '07?

21 A. No. That's what Al wrote.

22 Q. Oh. Okay.

23 So Al wrote that, inquiring as to what the
24 other recipients in the e-mail thought of the

1 proposal to increase the limits for this particular
2 customer, correct?

3 A. Yes.

4 Q. Okay. And then when you go to the first page
5 of Exhibit 21, you said -- or, you wrote: I denied
6 them previously because of the amounts of
7 hydrocodone. That's really all they want. I figured
8 based on the numbers it was safer to keep them at

11 That was your written response to George
12 Fields, Al Paonessa --

13 A. Yes.

14 Q. Okay. Who is George Fields?

15 A. George Fields, he was in sales, and I think
16 we ended up moving in sales. I'm not sure what his
17 capacity was in sales. Maybe a director of sales.

18 Q. Okay. And you asked him as to whether they
19 were a chain or a wholesaler?

20 A. Yes.

21 Q. Okay. And George replied they were a
22 distributor?

23 A. A wholesale distributor.

24 Q. Was Anda in the business in 2007 of selling

1 product to other wholesale distributors?

2 A. I believe so. I'm not sure when we cut off
3 wholesalers and distributors.

4 Q. Okay.

5 A. It would have happened around the same time
6 we did the physicians, so I just don't have a
7 specific date. I'm going to assume yes back in 2007,
8 but I don't remember.

9 Q. Okay. We can go later into what I think the
10 date for that is.

11 A. Okay.

12 Q. But it's still a couple years out yet?

13 A. What's that?

14 Q. Well, we'll get there.

15 Now --

16 A. Well, I guess the answer is, yes, we were
17 selling to distributors in 2007.

18 Q. Okay. How is it that you would have known
19 that what they really wanted was hydrocodone?

20 A. Probably looking at the past purchasing
21 history, but I'm not sure.

22 [REDACTED]
23 tabs in two months is the past purchasing history
24 that they had with Anda?

1 A. It would appear so.

2 Q. Okay. And you are suggesting that at this
3 point they be kept at 5,000 tabs per month?

4 A. Yes.

5 Q. Okay. Now, Al subsequently asks George: Why
6 would they use a million tabs? Diverting it?

7 Do you know if there was ever a response to
8 that from Mr. Fields?

9 A. I do not know.

10 Q. Okay. Did that question from Al Paonessa
11 drive any further inquiry that you're aware of to see
12 whether these guys had been diverting?

13 A. I can't remember if it did or not, but
14 knowing that it was Maria Alonzo and it was a
15 distributor account, they were probably one of our
16 larger Puerto Rico customers that was a distributor
17 on the island. But I don't remember specifically
18 what else we went after or investigating.

19 Q. Okay. So as you have modified the policy
20 coming out of the July 2007 meeting to restrict
21 distribution for 5,000 units for any particular
22 controlled substance, were there a lot of these
23 requested modifications to increase the limits above
24 5,000 by different customers?

1 A. Yeah. There were quite a few, I would say.

2 Q. Particularly at the early onset of that
3 change?

4 A. Correct. Eventually, it kind of dwindled
5 down as we reviewed customers on a case by case
6 basis.

7 (Anda - Cochrane Exhibit 22 was marked for
8 identification.)

9 BY MR. NOVAK:

10 Q. We have had marked Anda - Cochrane
11 Exhibit 22, which is a one-page e-mail exchange
12 between you and Al Paonessa dated November 9th of
13 2007 bearing the Bates Number Anda 258572.

14 And it starts with an e-mail that you wrote
15 to Al where you wrote, quote: I need your approval
16 to change the monthly dosage limit percentage on the
17 account listed below to 3,900 percent allowing them
18 to purchase up to 200,000 dosage units per month.

19 Is that what you wrote to Al back in November
20 of 2007?

21 A. Yes.

22 Q. Okay. And the specific customer that was at
23 issue for this e-mail was the Harvard Drug Group?

24 A. Yes.

1 Q. You were proposing that their limit for
2 controlled substances be raised to 200,000 units per
3 controlled substance family per month?

4 A. Yes.

5 Q. So they could purchase, for example, 200,000
6 units in the OxyContin family, 200,000 units in the
7 hydrocodone family, 200,000 units in the morphine
8 family, or 200,000 units in the fentanyl family?

9 A. Yes.

10 Q. And Al wrote back saying "Approved," correct?

11 A. Yep.

12 Q. What evaluation did you perform for purposes
13 of proposing that the threshold limits be increased
14 to 200,000 dosage units per month for each of these
15 different opioid classes?

16 A. I would probably resort back to SOP
17 Number 40. It's not necessarily going to be dispense
18 data from them since they are a distributor that's
19 always selling to pharmacies and physicians but
20 probably some kind of a sales history as far as what
21 products they were distributing and the quantities.

22 Q. Okay. But it would not evaluate who they
23 were selling the product to?

24 A. No.

1 Q. Okay. Because they were another distributor?

2 A. Correct.

3 Q. Okay. And would that similarly have been the
4 case in your evaluation of the immediately prior one
5 that we looked at, FMC?

6 A. Yes.

7 MR. MATTHEWS: Objection.

8 BY MR. NOVAK:

9 Q. Similarly, you would not have reviewed who
10 FMC was selling to?

11 A. No. Other distributors aren't going to share
12 information as far as their customer base is
13 concerned.

14 Q. Okay.

15 (Anda - Cochrane Exhibit 23 was marked for
16 identification.)

17 BY MR. NOVAK:

18 Q. We have had marked Anda - Cochrane Deposition
19 Exhibit 23, which is a two-page -- well, more than
20 two-page -- a three-page e-mail thread entitled
21 "Distributor Notification," the top page of which is
22 dated December 11, 2007, bearing Bates Number Anda
23 272213 through 15.

24 Now, this morning we had talked about

1 different notifications that the DEA provided to all
2 of the different distributors in the industry about
3 particular customers who had been restricted by other
4 distributors, correct?

5 A. Yeah.

6 Q. And is that what this notification is from
7 the DEA?

8 A. It is.

9 Q. So the DEA provided notification to you that
10 the various retail pharmacies and other entities that
11 are listed on the second page of Anda - Cochrane
12 Deposition Exhibit 23 had been cut off by somebody?

13 A. Yes.

14 Q. And in reviewing that list, it was your
15 observation that you wrote to Emily Schultz as
16 follows: Get all the customer information from this
17 below in Excel. I don't want to cut all of them off.
18 Some are good customers.

19 Is that what you wrote to Emily?

20 A. It is.

21 Q. Okay. So this morning when we were talking
22 about other distributors that would cut off accounts
23 based on their suspicious order monitoring program, I
24 think your testimony is that Anda would process those

1 cutoffs as well when they received notification from
2 the DEA, correct?

3 A. Correct.

4 MR. MATTHEWS: Objection.

5 BY MR. NOVAK:

6 Q. But in this particular instance you wanted to
7 do a little more evaluation of at least some of the
8 accounts because you thought some of them might have
9 been good customers?

10 A. Yes. And I'm not a hundred percent sure what
11 would have brought me to -- to think that. It could
12 have been a conversation or a meeting we had
13 regarding this specific list. And it's not in the
14 e-mail trail, but for some reason, I wanted to dig a
15 little bit further.

16 Q. Okay. In looking at the list of customers
17 that is referenced on the second page of the exhibit,
18 are there particular customers that stand out to you
19 as ones that you would have described as good
20 customers for Anda?

21 A. Not looking at it like this, just based on
22 their name, DEA registration, city, and state. There
23 could have been something that I did as far as our
24 system is concerned in researching our sales to them

1 that led me to believe that some were good customers.

2 Q. The third customer from the bottom is listed
3 as New Choice Pharmacy in Cuyahoga Falls, Ohio.

4 Does that ring a bell as a customer of Anda?

5 A. No.

6 Q. Do you recall ever reporting New Choice
7 Pharmacy as having placed suspicious orders with
8 Anda?

9 A. No.

10 Q. Okay. Now, we had reviewed the last
11 suspicious order and excessive order submissions that
12 Anda made to the Drug Enforcement Administration from
13 Jay Spellman this morning.

14 Those were, I think, in approximately
15 September of 2007, right?

16 A. I believe so.

17 MR. MATTHEWS: Objection.

18 BY MR. NOVAK:

19 Q. And from that point forward, you were trying
20 to create a different form of reporting suspicious
21 orders to replace the notifications that Jay Spellman
22 had been making to the DEA, correct?

23 A. Yes.

24 (Anda - Cochrane Exhibit 24 was marked for

1 identification.)

2 BY MR. NOVAK:

3 Q. We've had marked Anda - Cochrane Deposition
4 Exhibit 24, which is a thread of multiple e-mail
5 between various individuals, which is dated -- at
6 least the top one is dated April 10th of 2008, but
7 they go on for a much earlier period. And it bears
8 the number Anda 276122 through 276129.

9 I think the best way to start is at the back
10 end and kind of go forward.

11 Looking at the page that ends with the Bates
12 Numbers 128, I believe there's an e-mail that you
13 wrote on October 5, 2007, to John Bossert.

14 First of all, who is John Bossert?

15 A. John Bossert is a DEA representative, I
16 believe, from their IT department whose information
17 we were given at our 2007 meeting with DEA.

18 Q. Okay. So you -- you stopped submitting the
19 old reports --

20 A. Yes.

21 Q. -- and you were writing Mr. Bossert to figure
22 out the reporting mechanism you were going to use
23 going forward?

24 MR. MATTHEWS: Objection.

1 THE WITNESS: Yeah. Back then, they wanted
2 us to do daily submissions of all of our
3 controlled substance sales for all products in
4 the ARCOS format, and we agreed to do it. And
5 John was supposed to be the contact person at DEA
6 for helping us get it done.

7 BY MR. NOVAK:

8 Q. Okay. So you were submitting this e-mail to
9 John, basically asking for the logistics and the form
10 of how that daily data would be submitted?

11 A. Yeah. They wanted -- they wanted ARCOS
12 formatted daily sales for all controlled products was
13 one of -- was one of the take-aways from that
14 meeting.

15 Q. And when you say "that meeting," you are
16 referring to the July 2007 meeting that had Anda
17 representatives, DEA representatives, and a few
18 Watson --

19 A. Yes.

20 Q. -- representatives?

21 And then a little higher up the page there is
22 similarly an e-mail that you sent to Mr. Bossert
23 saying: Can you respond to this e-mail letting me
24 know you have received it? I am just making sure

1 they are not being rejected by your e-mail server.

2 A. Yes.

3 Q. And that would have been sent on October 22nd
4 of '07?

5 A. Yes.

6 Q. Okay. And then if we look another page up,
7 ending in 127, there is similarly some e-mail that
8 you send both to Mr. Bossert and to Kyle Wright at
9 the drug administration -- Drug Enforcement
10 Administration asking about these daily submissions
11 as well?

12 A. Yes.

13 Q. Now, was it your understanding that these
14 daily submissions were supposed to replace the
15 suspicious order monitoring system reports or that
16 they were an entirely different type of data that was
17 to be submitted to DEA?

18 MR. MATTHEWS: Objection.

19 THE WITNESS: They wanted every single
20 transaction that we were doing.

21 BY MR. NOVAK:

22 Q. Okay. So these daily/every transaction
23 you're doing submissions were not intended to
24 delineate specifically orders that were deemed by

1 Anda to be suspicious?

2 A. I don't believe so.

3 Q. Okay. And then if we look at the page ending
4 in 126, you send a further e-mail where you write:
5 Hi. Are you still interested in having us submit all
6 of our controlled substance transactions daily? My
7 samples and questions from a while back are below.
8 Let me know.

9 And that was something you sent to
10 Kyle Wright and John Bossert at the DEA on April 8th
11 of 2008, correct?

12 A. Yes.

13 Q. Okay. So for this multiple-month period, you
14 had been sending DEA e-mail, basically, asking how
15 you submit these daily submissions and not getting
16 much by way of responses.

17 Is that a fair characterization?

18 A. Yeah.

19 Q. And then finally on April 8th of 2008, you
20 receive a response from Kyle Wright who writes to
21 you: Mike, Yes, I am still very interested in
22 getting your data, but we need to discuss this.

23 And then discussing the logistics of setting
24 up a call.

1 Is that the first reply you've received from
2 the DEA about the logistics of making these daily
3 submissions?

4 A. I believe it is.

5 Q. Okay. And then if we look at the page ending
6 with the three digits 125, Kyle Wright writes to you
7 on April 10th of 2008 and writes: Mike, I have
8 attached an MOA for you and your firm to review.
9 This is an agreement between Anda and DEA which
10 protects your firm, particularly for not reporting
11 directly to the field offices. Please review and
12 send me any questions you may have.

13 Your understanding is that Kyle Wright
14 proposed a memorandum of agreement as it related to
15 your submission of information?

16 A. Yeah.

17 Q. Okay.

18 A. We had never received one before, so . . .

19 Q. When you say "never received one before," you
20 mean never received a memorandum of agreement before?

21 A. Yeah, from Kyle or anybody at DEA. I'm just
22 going up and looking at the next response.

23 Q. Okay. So after you receive that response,
24 you e-mail Al Paonessa at Anda, Tracey Hernandez at

1 Watson, and Patrick Cochrane at Anda on April 10th of
2 2008 and write: I finally got a response regarding
3 our daily reporting. We have not developed a SOMS
4 yet. Please take a look at the agreement Kyle Wright
5 sent. Tracey, as I said before, I think it would be
6 better if we are on the same page as far as a SOMS if
7 possible. End of quote.

8 You wrote that e-mail on April 10th of 2008
9 to Al Paonessa, Tracey Hernandez, and Pat Cochrane,
10 correct?

11 A. Yes.

12 Q. Now, the e-mail concerns two subjects. The
13 first is the response on the daily reporting, but the
14 second is your statement regarding an -- I'm sorry --
15 SOMS.

16 What does the term SOMS mean as you wrote it
17 to the president of Anda, Tracey Hernandez, and
18 Patrick Cochrane on April 10th of 2008?

19 A. Suspicious order monitoring system.

20 Q. Okay. So what you reported to Al Paonessa,
21 Tracey Hernandez, and Patrick Cochrane was, quote:
22 We have not yet -- we have not developed an SOMS yet,
23 correct?

24 A. Yeah. We needed to figure out formatting, I

1 think, to get it in. And then if you jump ahead to
2 the previous page -- or the next page, Tracey talks a
3 little bit there.

4 Q. You're talking about the page ending in 124?

5 A. Yes.

6 Q. Okay. Why don't we go to that.

7 So Tracey responds to your e-mail and states:

8 Okay, Michael, you totally lost me. I thought they
9 already. (I remember a conversation a while back
10 about having it by product SKU but not by class?)
11 All along, I've been under the impression that you
12 had this in place. We were going to have this
13 meeting to compare the two programs? What am I
14 missing here?

15 She wrote that to you in -- on April 10th of
16 '08, correct?

17 A. Yes.

18 Q. And she cc'd Al Paonessa and Pat Cochrane?

19 A. Yes.

20 Q. Okay. Did you have in this time frame, in
21 addition to the written e-mail that was going back
22 and forth with Tracey, any telephone conversations
23 about the existence of an SOMS report at -- an SOMS
24 program at Anda?

1 A. I don't recall off the top of my head if we
2 did or not.

3 Q. Okay. But basically you were trying to find
4 out what type of new system to configure and put in
5 place for purposes of having a suspicious order
6 monitoring system at this point in April of 2008,
7 correct?

8 A. If you go to page ending in 123, that
9 paragraph there talks about how we were implementing
10 the limits per family, the older Excel-style
11 reporting that we were doing back in September of
12 2007, the dosage unit limits. We talked to the local
13 office. We let them know we were in the process of
14 developing different reporting criteria.

15 And, again, we used that 5,000 dosage unit
16 limits for the family rather than creating a report
17 that would have sent customers that ordered more than
18 that, that we have approved and deemed worthy of it.

19 Q. Okay. Let's go through -- that answer tied
20 in with what you -- what you replied to Tracey
21 with --

22 A. Yes.

23 Q. -- in April 10th of 2008. So let's go
24 through that in a little bit more detail.

1 So the first thing you write in the first
2 sentence is: Correct. We have all had conversations
3 in the past regarding our suspicious order monitoring
4 program.

5 What do you mean by saying "correct"?

6 A. I'm not sure.

7 Q. Okay. The second sentence, you write: Based
8 on us implementing the limits per family, our program
9 would only capture customers that we actually think
10 are good customers at this point.

11 What do you mean by that?

12 A. If you go back to SOP 40 that was written
13 after we developed the 5,000 dosage unit per family
14 and we approved them for more than 5,000, the
15 customers that would have hit the report that Jay
16 used to send would be actually good customers that
17 we've approved for an increase.

18 Q. Okay. So you had an old suspicious order
19 monitoring system that would report customers who
20 ordered in excess of 5,000?

21 A. Correct.

22 MR. MATTHEWS: Objection. Just pause so I
23 can get my objection in.

24 THE WITNESS: Got you.

1 BY MR. NOVAK:

2 Q. And as you observe here, under the new
3 system -- the new Standard Operating Procedure 40
4 that you have created, if you're complying with that
5 SOP 40, the only customers who would be getting
6 reported are ones that you deemed were good customers
7 because they had been approved for an amount in
8 excess of 5,000 units?

9 MR. MATTHEWS: Objection.

10 THE WITNESS: Yes.

11 BY MR. NOVAK:

12 Q. Okay. So you are trying to figure out an
13 alternative method of devising reporting limits for a
14 suspicious order monitoring system?

15 A. I think that we did the 5,000 dosage unit
16 limit total per family and started our due diligence
17 process that was all part of our -- our order
18 monitoring system.

19 Q. Okay. And then, further down in the e-mail,
20 you state -- by the way, the Standard Operating
21 Procedure 40 that you made reference to in these
22 answers, that's the procedure that we reviewed
23 earlier this morning as Anda - Cochrane Deposition
24 Exhibit 8, correct?

1 A. Yeah. Yes.

2 Q. Okay. Now, going back to Anda - Cochrane
3 Deposition Exhibit 24, as we go further down the
4 e-mail, you state: I have only talked to our local
5 office in Ft. Lauderdale regarding this. They are
6 aware of our reporting criteria and know we have
7 monthly limits in place and understand we are in the
8 process of developing different reporting criteria.

9 You see that statement?

10 A. I do.

11 Q. Okay. So explaining to Tracey what you're
12 essentially saying is we had the old suspicious order
13 monitoring reports that were going in from Jay
14 Spellman and were now --

15 THE WITNESS: The new methodology that we've
16 implemented.

17 MR. MATTHEWS: Wait for a question.

18 BY MR. NOVAK:

19 Q. We're now in the process of developing
20 different reporting criteria?

21 MR. MATTHEWS: Objection.

22 You can answer.

23 THE WITNESS: Yes. Because with the
24 implementation of our due diligence program and

1 the 5,000 dosage unit limit as suggestions from
2 our previous meeting, correct.

3 BY MR. NOVAK:

4 Q. Okay. So in response to that discussion,
5 Tracey writes back to you on April 10, 2008, and
6 states: That would be helpful. How did we end up in
7 conversation with Kyle about a memorandum of
8 understanding?

9 You see that reference?

10 A. I do.

11 Q. Okay. Now, that reference is about having a
12 memorandum of understanding in effect as it related
13 to sending the daily data submissions to the DEA
14 that -- that was the initial topic of this e-mail
15 thread, correct?

16 A. I'm not sure.

17 Q. Okay. All right. And then you replied to
18 Tracey and stated -- on April 10 of 2008, and stated:
19 That is the first I have seen or heard of an MOA.
20 When we were in DC, they asked if we would report all
21 our controlled substance sales for all schedules
22 daily. We tried to get them to review our sample
23 reports numerous times, and this is finally the
24 response he sent to my e-mail on 4/8/08. First he

1 requested a brief conference call, and then he
2 e-mailed the memorandum of agreement.

3 That was your explanation to Tracey?

4 A. Yes.

5 Q. Okay. And then the top e-mail, Tracey's last
6 response to you in this thread, she says: Would you
7 mind if I followed up with Kyle before you sign
8 anything?

9 And then has additional discussion after
10 that?

11 So was it left, at least at this juncture,
12 with Tracey requesting that she do some follow-up
13 before you actually entered a memorandum of
14 agreement?

15 A. Yes.

16 Q. Okay. By the way, sometimes these e-mail
17 exchanges make reference to a memorandum of agreement
18 and in other instances a memorandum of understanding.

19 Do you mean those two terms -- do you
20 understand those two terms to mean the same thing, at
21 least in the context of these e-mails?

22 A. Yeah.

23 (Anda - Cochrane Exhibit 25 was marked for
24 identification.)

1 BY MR. NOVAK:

2 Q. We've had marked as Anda - Cochrane
3 Exhibit 25 a continuation of the e-mail thread that
4 we've just been discussing with respect to the
5 submission of reports to the DEA. It's dated --
6 well, there are multiple dates. The top date is
7 April 30th of 2008, and it is comprised of several
8 e-mails between Tracey Hernandez, you, and I think
9 some DEA officials. And it is Anda MDL 276111
10 through 113.

11 And like the last time, I'll start with the
12 last one in the chain on Page 3 with the page number
13 113.

14 And there, there is an e-mail from
15 Kyle Wright at the Drug Enforcement Administration
16 who writes to you on April 11, 2008, and says: Mike,
17 I got off the phone with Ms. Chiavaro pertaining to
18 suspicious orders. It is believed that you are
19 sending your suspicious orders to me here at DEA. I
20 checked with our IT folks yesterday, and we have not
21 received any suspicious or daily reports. I know
22 that you are proposing to send them and therefore I
23 sent you the MOA for your firm to review.

24 You see that statement from Kyle Wright to

1 you?

2 A. Yes.

3 Q. Okay. And then he asks: Have you been
4 sending us your daily/suspicious orders? If so,
5 please let me know so that I can get to the bottom of
6 this immediately. May have to have your IT folks
7 talk to our IT folks.

8 From the time -- well, first of all, is that
9 what Kyle wrote to you in April of 2008?

10 A. Yes.

11 Q. Now, from the time that the old reporting
12 format of sending suspicious order reports to the DEA
13 from Jay Spellman had ended in September of -- in
14 August or September of 2008, there had not been any
15 actual suspicious order reports submitted by Anda to
16 the DEA between then and April of '08, correct?

17 A. Correct.

18 Q. That question -- it's been pointed out to me,
19 when I said the Jay Spellman reports, I need to
20 clarify this. I think I said August or September of
21 '08. They actually stopped in August or September of
22 '07.

23 Is that what you understood?

24 A. Yeah.

1 Q. Okay. So between that time and April of
2 2008, no suspicious order reports have been submitted
3 to the DEA?

4 A. Correct.

5 Q. And it is your view that there were no
6 suspicious orders that had been placed with Anda
7 during that time period?

8 A. Yes.

9 Q. And just so we're on the same wavelength for
10 purposes of that answer, when you say yes, you mean
11 that your view is that no suspicious orders had been
12 placed with Anda between August of 2007 and
13 April 2008?

14 A. Yes.

15 Q. Okay. And then after receiving that e-mail
16 from Kyle Wright, you wrote to Tracey and asked on
17 April 11th of 2008 -- and this is the page of the
18 e-mail ending in 112 -- and you write: How should I
19 respond to this e-mail? We've been trying to set up
20 the daily reporting since last year and never got any
21 responses from DEA in Washington. Can we start the
22 daily, just not the suspicious. What is suspicious
23 about the great majority of our customers only being
24 allowed to order 5,000 dosage units of a controlled

1 substance family? I sent you the e-mail I sent to
2 Joanne Chiavaro yesterday explaining our current
3 practice.

4 That is what you wrote to Tracey?

5 A. Yes.

6 Q. By the way, is Tracey simply providing advice
7 in this process, or does she have some veto power
8 over the decisions that you're attempting to
9 implement at Anda?

10 A. I would say advice.

11 Q. Okay. So you asked her for advice on how to
12 respond to Kyle's e-mail, and then you followed it up
13 on April 15 asking Tracey if she had a chance to read
14 your e-mail; and then again on the 16th; and finally
15 she replied on April 30th and states: Michael, I
16 spoke with Kyle, and he referred me to their IT guy,
17 John Bossert. I have a call in to John to see if I
18 can get more details. Sounds like they've set up
19 some program to receive and interpret SOM information
20 on their end, parens, probably something they
21 mandated for the companies who licenses they
22 suspended/revoked but they are "requesting - not
23 mandating" for us to do it as well.

24 You received that reply from Tracey on

1 April 30 of '08?

2 A. Yes.

3 Q. By the way, do you recall this process of
4 going back and forth on trying to figure this out,
5 back from this time period in 2008?

6 A. Vaguely.

7 Q. Okay. And then she continues, quote: He
8 said we still have the option of supplying to the
9 local office, but they would prefer it to come to HQ
10 in an automated format. I explained that we
11 certainly shouldn't have very many suspicious orders
12 at this point and an automated process seemed a bit
13 much for a minimum number of suspicious orders. He
14 stated he didn't feel it would take much to submit
15 electronically and suggested I contact John. I'll
16 call as soon as I hear back from him. In the
17 meantime, I would hold off on the MOA.

18 Tracey wrote that to you in April 30 of 2008?

19 A. Yes.

20 Q. So at this point, there are still two
21 different things in play: One is submission of this
22 daily data, and the other is submission of suspicious
23 order monitoring information, correct?

24 A. Correct.

1 Q. You understood those to be two different
2 things?

3 A. Yes.

4 Q. Okay.

5 (Anda - Cochrane Exhibit 26 was marked for
6 identification.)

7 BY MR. NOVAK:

8 Q. We have had Anda - Cochrane Deposition
9 Exhibit 26, which is an e-mail thread between Tracey
10 Hernandez, Michael Cochrane, and also with a portion
11 of it including Kyle Wright at the Drug Enforcement
12 Administration. It bears the Bates stamps Anda
13 276096 to 97.

14 Are these e-mails that would have been
15 exchanged between you, Tracey, and Kyle Wright at the
16 DEA in May of '08?

17 A. Yes.

18 Q. So after the last e-mail that we looked at,
19 Tracey followed up on May 6th with Kyle Wright and
20 wrote: Kyle, on April 30th, I contacted you
21 regarding the format that you would like to see
22 suspicious orders in for our Anda facilities. You
23 advised that I contact John Bossert, which I did that
24 same day and left a message on his voicemail. I have

1 not heard back from him to-date.

2 Kyle, we are happy to supply SOM data
3 directly to the headquarters office if that makes the
4 receipt and review easier for your folks. Our only
5 concern is this. We have made drastic improvements
6 to our suspicious order monitoring system since our
7 meeting last August. As a result, the number of
8 truly suspicious orders that we have to report are
9 next to nothing.

10 We don't mind supplying data to you via
11 e-mail but really don't want to go through the extra
12 time, expense, and resource to develop a reporting
13 mechanism that is as structured as the ARCOS format
14 when we don't see having much, if anything, to report
15 each month.

16 Are you in agreement with the
17 characterization of the suspicious order monitoring
18 system that Tracey provided in that explanation to
19 Kyle?

20 MR. MATTHEWS: Objection.

21 THE WITNESS: Yes. We started our due
22 diligence process. We had our thresholds in
23 place from the meeting that we had the prior year
24 to them that was a suggestion.

1 And, yes, I agree.

2 BY MR. NOVAK:

3 Q. Okay. At this point in time, had Anda
4 developed the alternative criteria that it would use
5 to determine what type of suspicious order should be
6 reported to DEA?

7 MR. MATTHEWS: Objection.

8 THE WITNESS: I don't remember.

9 BY MR. NOVAK:

10 Q. Okay.

11 (Anda - Cochrane Exhibit 27 was marked for
12 identification.)

13 BY MR. NOVAK:

14 Q. We've had marked Anda - Cochrane Deposition
15 Exhibit 27, which is an e-mail exchange of one page
16 between Michael Cochrane and Tracey Hernandez dated
17 June 17 of 2008, bearing the Bates number Anda
18 Opioids MDL 276927.

19 Now, in this e-mail, Tracey writes to you and
20 asks on June 16th of '08: Michael, did you ever get
21 ahold of John Bossert at DEA HQ to pursue the
22 automated SOMS report?

23 That's what she wrote to you, correct?

24 A. Yes.

1 Q. And you replied: No. You had said last
2 month you wanted us both to be on the call. Let me
3 know when.

4 Correct?

5 A. Yes.

6 Q. So you still had not made arrangements with
7 John Bossert at DEA as it related to the submission
8 of the daily transactional information that had been
9 discussed in July of '07?

10 A. Correct.

11 Q. And --

12 A. I think Tracey had multiple calls in to him,
13 though, that were talked about in the previous
14 e-mails.

15 Q. Right. Okay.

16 MR. NOVAK: A quick five-minute break.

17 THE VIDEOGRAPHER: Off the record at 2:52.

18 (Recess from 2:52 until 3:06 p.m.)

19 THE VIDEOGRAPHER: The time is 3:06 p.m. We
20 are now back on the video record.

21 BY MR. NOVAK:

22 Q. Mr. Cochrane, we had been speaking about
23 development of alternative criteria for a suspicious
24 order monitoring system.

1 (Anda - Cochrane Exhibit 28 was marked for
2 identification.)

3 BY MR. NOVAK:

4 Q. And in that regard, why don't we run through
5 Anda Deposition Exhibit 28 and the Cochrane
6 Deposition Exhibit 28, which is comprised of a
7 single-page e-mail from you to Patrick Cochrane dated
8 February 9th of 2010, and then attached to that is a
9 Standard Operating Procedure 40. And those three
10 pages combined have Anda MDL 78286 through 78288.

11 Now, before I get to the e-mail that you
12 wrote to your brother Patrick, let me ask you some
13 questions about Standard Operating Procedure 40 that
14 is contained in the second two pages.

15 Is this a document that you reviewed -- I
16 mean that you authored?

17 A. It looks like it. I don't remember it,
18 though.

19 Q. Okay. In the document, there is a procedure
20 that is referenced at the page ending in 88.

21 You see that part of the document?

22 A. Yes.

23 Q. Okay. Now, going through the first portion
24 of the procedure, it states "3.1 System Formula."

1 And then the first line is line number one, states:

2 Add quantity purchased over last 12 months
3 for all customers.

4 2. Add the number of months customers
5 purchased that do not equal zero.

6 3. Divide the quantity purchased by the
7 total customer months.

8 4. Multiply the quantity by a factor of
9 three.

10 5. If customer order quantity exceeds this
11 number, order is to be held for review.

12 Is that a process that you drafted?

13 A. I don't remember.

14 Q. Okay. Do you recall attempting to get some
15 alternative method developed to hold suspicious
16 orders?

17 MR. MATTHEWS: Objection.

18 THE WITNESS: Yes.

19 BY MR. NOVAK:

20 Q. Okay. And when I say "hold suspicious
21 orders," for this purpose, do you understand that to
22 mean to pend an order so it is not filled until it
23 has some form of further review by the company?

24 A. Yes.

1 Q. Okay. So is it fair to say that what you're
2 attempting to develop here is an alternative
3 suspicious order monitoring system that has different
4 numerical criteria for purposes of holding and
5 reviewing suspicious orders?

6 A. Yes.

7 MR. MATTHEWS: Objection.

8 BY MR. NOVAK:

9 Q. Okay. And if I can paraphrase what is
10 attempted to be done by this system formula, is it to
11 take essentially the average monthly order of a
12 customer over the last 12 months and multiply it by
13 three?

14 MR. MATTHEWS: Objection.

15 THE WITNESS: Yes.

16 BY MR. NOVAK:

17 Q. So if I understand it correctly, what you are
18 trying to do with this new draft suspicious order
19 monitoring system would be to take a customer's
20 monthly average report -- or, I'm sorry, his monthly
21 average purchase based on 12 months of data, and if
22 their current order exceeds three times that monthly
23 average purchase, then the order would be held for
24 further evaluation?

1 MR. MATTHEWS: Objection.

2 THE WITNESS: Yes.

3 BY MR. NOVAK:

4 Q. Okay. And the whole purpose of creating this
5 is to create some type of system that would detect
6 orders that require additional review to determine
7 whether they are suspicious under the applicable
8 regulatory requirements or whether they can be
9 shipped?

10 A. Yes.

11 Q. And so you developed this alternative
12 approach, looking at the page ending in 87, in
13 December of 2009?

14 MR. MATTHEWS: Objection.

15 THE WITNESS: Yes.

16 BY MR. NOVAK:

17 Q. And then, looking at the first page of the
18 document, you were asking Patrick Cochrane to -- to
19 take a look at it and give you feedback?

20 A. Yes.

21 (Anda - Cochrane Exhibit 29 was marked for
22 identification.)

23 BY MR. NOVAK:

24 Q. We've had marked as Anda - Cochrane

1 Deposition Exhibit 29, a three-page document, the
2 first page of which is an e-mail thread between
3 Michael Cochrane, Al Paonessa, and Patrick Cochrane
4 dated June 22nd and June 29th of 2010. And then the
5 second and third pages are the draft standard
6 operating procedure. It bears the Bates Number Anda
7 281694 through 696.

8 And, again, Mr. Cochrane, I'll start with the
9 third page of the exhibit.

10 And as far as I can tell, the only difference
11 between this page and the one that we had just
12 reviewed on Anda - Cochrane Exhibit 28 is that it has
13 the words "addlible dlykins" down at the bottom.

14 Do you know what that means?

15 A. It's a way to test system functionality in
16 our test system, not our live system.

17 Q. Okay. So at this point in 2010, the Standard
18 Operating Procedure 40, as you revised it in December
19 of 2009 and was discussed in February of 2010 in your
20 e-mail with Patrick, has not been implemented,
21 correct?

22 MR. MATTHEWS: Objection.

23 THE WITNESS: I do not believe so.

24 ///

1 BY MR. NOVAK:

2 Q. Okay. And at the very top of the e-mail on
3 the first page of Anda - Cochrane Deposition
4 Exhibit 29, you state to Al Paonessa, the president
5 of the company, and your brother, Patrick, quote: I
6 need to test the program again with someone from
7 John's group. I'm not sure how many orders would go
8 on hold because our testing has only consisted of
9 remote orders for a day. Is three times our average
10 sales based on the formula suspicious to warrant a
11 review? Should it be more or less?

12 Is that what you wrote to the president of
13 the company, Albert Paonessa, and your brother,
14 Patrick Cochrane?

15 A. Yes.

16 Q. Is it fair to say that as of this point in
17 June of 2010 you're still evaluating some alternative
18 method for detecting and then evaluating and possibly
19 reporting suspicious orders?

20 A. Yes.

21 Q. Okay. Now, from the period of August of 2007
22 when the old method of reporting suspicious orders to
23 the DEA through the monthly Spellman submissions had
24 ceased, had Anda reported any suspicious orders?

1 A. I do not believe so.

2 Q. Okay. And the company was evaluating what
3 criteria would appropriately be employed to identify
4 suspicious orders?

5 A. From a systematic approach, yes.

6 Q. And had been evaluating that issue from
7 September of '07 through June of 2010?

8 A. Yes, in addition to our due diligence,
9 customer questionnaire, dispense data, correct.

10 Q. And when you say that due diligence process,
11 you are referring to the Standard Operating
12 Procedure 28 that we reviewed earlier today as well
13 as the Standard Operating Procedure 40 based on the
14 5,000-unit cap?

15 A. Yes.

16 MR. MATTHEWS: Objection.

17 I'm going to ask the witness again just to
18 pause between the question and your answer to
19 give me an opportunity to pose an objection.

20 Thank you.

21 MR. NOVAK: If it assists, I can ask the
22 court reporter to put the objection in before his
23 "yes."

24 MR. MATTHEWS: Let the record reflect who

1 made that suggestion. I was -- it's Mr. Novak,
2 counsel for the plaintiffs and the deposing
3 lawyer at this time, not Mr. Matthews for the
4 defendant.

5 MR. NOVAK: Just trying to help.

6 I'm also just going to state for the record
7 that -- well, and this is really more for
8 purposes of cross-referencing the depositions.

9 (Anda - Cochrane Exhibit 30 was marked for
10 identification.)

11 MR. NOVAK: We've had marked Anda Deposition
12 Exhibit 30 a document that was previously marked
13 as Anda - Brown Deposition Exhibit 6, and my sole
14 purpose for doing that was to place into the
15 record that the standard operating procedure
16 draft that we've been reviewing had similarly
17 been identified in a prior deposition.

18 BY MR. NOVAK:

19 Q. And I suppose I will just ask: Mr. Cochrane,
20 the procedure that is set forth in the second page of
21 Anda - Brown Deposition Exhibit 6, that is the same
22 procedure that is set forth and about which you have
23 been testifying in Anda - Brown -- I'm sorry, Anda -
24 Cochrane Deposition Exhibits 28 and 29, correct?

1 A. Yes.

2 Q. Okay. Can you describe for me what the
3 process of testing the system functionality of this
4 revised Standard Operating Procedure 40 that you
5 created -- how one would do that?

6 A. With our IT department, we would take
7 previous orders from a day on our test system and run
8 them through the program and the system functionality
9 to make sure it was working appropriately.

10 Q. Okay. And were you involved in interacting
11 with your IT program to perform that type of testing
12 with the revised Standard Operating Procedure 40 that
13 you had been working on?

14 A. Yes.

15 (Anda - Cochrane Exhibit 31 was marked for
16 identification.)

17 BY MR. NOVAK:

18 Q. We've had marked as Anda Exhibit 31 a
19 document that is comprised of multiple pages. The
20 top page is an e-mail between Deanne Lykins and
21 Michael Cochrane dated October 28, 2011, and the
22 remainder of the document is approximately six pages
23 long. It's a series of e-mails bearing the Bates
24 Number 79269 through 79274.

1 Are these e-mails that would have been
2 exchanged between you, Deanne Lykins, and Emily
3 Schultz as it relates to the testing of the draft
4 standard operating procedure that has been the
5 subject of Deposition Exhibits 29 and 30?

6 MR. MATTHEWS: Objection.

7 THE WITNESS: I believe so.

8 BY MR. NOVAK:

9 Q. Okay. And the earlier exhibit made reference
10 to the quantity purchased over the last 12 months.
11 If we look at Anda Exhibit 31, it appears to be
12 reviewing data over six months?

13 A. Yes.

14 Q. Okay. So one of the things that you're
15 evaluating in the testing period for the new method
16 of creating suspicious order monitoring system is
17 whether you should use 12 months of historical data
18 from the customer or six months of historical data
19 from the customer; is that fair?

20 A. Yes. I'm not sure why, but these e-mails are
21 a lot --

22 Q. And then Ms. Lykins' e-mail to you on the
23 front page of Anda Exhibit 31, dated October 28th of
24 2011, makes reference to customer average per month,

1 customer average per order, and class of trade
2 average per order.

3 Do you see those references?

4 A. Yes.

5 Q. Now, those would be three different methods
6 of reviewing a particular order to evaluate the
7 appropriateness of it, correct?

8 A. Yes.

9 Q. One method would be to compare the order
10 based upon what that specific customer has averaged
11 on a monthly basis; the second would be comparing the
12 order against what the customer's average order is;
13 and the third would be comparing it to all the
14 different customers in the same class of trade,
15 correct?

16 A. Yes.

17 Q. Okay. Were all of those different methods of
18 evaluating orders things that Anda was evaluating for
19 purposes of trying to create a -- a new suspicious
20 order monitoring system?

21 A. Yes.

22 Q. Okay. And during this time, June -- or, I'm
23 sorry, October of 2011, the existing system that is
24 in place for performing due diligence on any orders

1 that are received by Anda for controlled substances
2 is the 5,000 per unit threshold method that Anda
3 developed back in August of 2007?

4 MR. MATTHEWS: Objection.

5 THE WITNESS: I don't think so. At this
6 point in time, I think we had dropped the limits
7 to 1,000 dosage units.

8 BY MR. NOVAK:

9 Q. Okay.

10 A. Since we're in late 2011.

11 Q. Let me go back to Anda - Cochrane Exhibit 4,
12 if you have that, and direct you back to Page 9.

13 Now, in that discovery answer, Anda
14 identifies the Standard Operating Procedure Number 40
15 as having an effective date of December 2011.

16 MR. MATTHEWS: Objection.

17 BY MR. NOVAK:

18 Q. Do you see that reference?

19 A. I do.

20 Q. Okay. Are you aware of a system that had
21 been put in place by Anda that has a 1,000-unit limit
22 that was implemented prior to December of 2011?

23 A. I -- I believe we dropped the limits to 1,000
24 prior to 2011.

1 Q. Prior to December of 2011?

2 A. Yes.

3 Q. Okay. Would that be reflected in an actual
4 modification of the written standard operating
5 procedure that we had reviewed that was -- that you
6 created in August of 2007?

7 MR. MATTHEWS: Objection.

8 THE WITNESS: I'm not sure.

9 BY MR. NOVAK:

10 Q. Okay. And maybe this is a good point to talk
11 about more generally how these different standard
12 operating procedures are modified.

13 Are all of the modifications that are made to
14 procedures during the time that you performed your
15 responsibilities at Anda modifications that are made
16 in writing?

17 A. I can't recall if we documented the changes
18 to any of the procedures.

19 Q. Okay. The review process for modification of
20 standard operating procedures typically will include,
21 as part of the modified procedure, dates for when
22 they are reviewed and dates for when they are
23 revised, correct?

24 MR. MATTHEWS: Objection.

1 THE WITNESS: Correct.

2 BY MR. NOVAK:

3 Q. Okay. Now, why don't we go back to Anda -
4 Cochrane Exhibit 7.

5 And on the back page of that document, there
6 are various effective dates of standing -- Standard
7 Operating Procedure 40 that are referenced at Page 3
8 of the document, the first of which is December 2011,
9 and identifies you as the author. And then there are
10 further versions that are referenced identifying
11 different people as the authors.

12 Are -- are you indicating that there is a
13 version of Standard Operating Procedure 40 that was
14 promulgated by Anda in between the August 1st, 2007,
15 version that is Anda Deposition Exhibit 8 and the
16 December 11th version that is referenced on the third
17 page of Anda - Cochrane Deposition Exhibit 7?

18 A. I'm not sure. It looks like this may have
19 replaced the previous Number 40.

20 Q. Okay. So the company had -- and when you say
21 the previous Version 40, you are referring to Anda
22 Deposition Exhibit 8?

23 A. Yes.

24 Q. Okay. So Anda Deposition Exhibit 8 sets

1 forth the 5,000 dosage limit method of implementing a
2 standard operating procedure to -- to deal with
3 controlled substances, and it is replaced by a new
4 method in December of 2011, correct?

5 MR. MATTHEWS: Objection.

6 THE WITNESS: I'm not sure, but that's what
7 it looks like.

8 BY MR. NOVAK:

9 Q. Okay. Now, that new method uses a different
10 procedure to identify whether a particular order
11 should be held by Anda and investigated further
12 before it's released to the customer, correct?

13 A. Yes.

14 MR. MATTHEWS: Are you done with 31?

15 MR. NOVAK: Yes.

16 (Anda - Cochrane Exhibit 32 was marked for
17 identification.)

18 BY MR. NOVAK:

19 Q. Mr. Cochrane, I've handed you Anda - Cochrane
20 Exhibit 32, which is an additional draft version of
21 Standard Operating Procedure 40 bearing the Bates
22 Number Anda 82105 through 107. And just to identify,
23 the third page of the document makes reference to a
24 creation date for the document of November 5, 2010.

1 So is this a draft of the standard operating
2 procedure that would have been in evaluation after
3 the procedure you created with the 5,000 control
4 units per month in August of '07 and before we get to
5 whatever is implemented in December of 2011?

6 A. I'm not sure.

7 Q. Okay. If you were attempting to find the
8 version of standard operating procedure that was
9 created and in effect in December of 2011, where
10 would you look if you were still at the company?

11 A. I'm not sure. I think there was a shared
12 drive that all of us had access to where we would
13 keep up-to-date documents.

14 Q. And would that shared drive also keep prior
15 iterations of those documents if they had been
16 modified over time?

17 A. I'm not sure.

18 Q. Okay. So, for instance, Standard Operating
19 Procedure 28 that deals with new accounts, that one
20 was modified over time to create additional
21 requirements for due diligence information and
22 dispense data, correct?

23 A. Yes.

24 Q. Would you be able to determine when those new

1 obligations were placed into Standard Operating
2 Procedure 28 by -- by going to the shared drive that
3 you're referencing and looking at the different
4 versions?

5 A. I'm not sure.

6 Q. Okay. Who would know the answer to that at
7 Anda as of the time that you had left?

8 A. I'm not sure. I would have to say Robert
9 Brown, potentially; Emily Schultz. I really don't
10 know.

11 Q. Okay. Going back to Anda - Cochrane
12 Deposition Exhibit Number 31, this reflects some
13 testing of a method for identifying orders that would
14 be held to determine whether they were suspicious or
15 not, correct?

16 A. Yes.

17 Q. Okay. Now, in an e-mail from you to Deanne
18 Lykins on October 27 of 2011 cc'ing Emily Schultz --
19 and this starts on Page 1 of Exhibit 31 and goes over
20 to Exhibit 2 -- you write: I didn't expect 822 lines
21 and 339 orders. Can you run the same day of sales
22 and look at 12 months of data to see what changes?

23 Is that a -- and then you proceed to state:
24 We also may look at increasing and decreasing some of

1 the multipliers.

2 So you're in essence asking Ms. Lykins to
3 review some of the different variables to see what
4 effect it has on the number of orders that are
5 generated?

6 MR. MATTHEWS: Objection.

7 THE WITNESS: I think so.

8 BY MR. NOVAK:

9 Q. Okay. And I'm -- I'm going to go back a
10 little bit, because we've been talking about this in
11 theoretical terms that may be difficult to -- to
12 understand. So I want to go back to some simple
13 concepts to see if we agree on them about this
14 process.

15 Anda, through your efforts, is attempting to
16 create a suspicious order monitoring system that will
17 identify orders that may be suspicious so that
18 regulatory compliance staff can perform additional
19 review of them before they are released?

20 MR. MATTHEWS: Objection.

21 BY MR. NOVAK:

22 Q. Is that the purpose of the exercise that
23 you're performing that's discussed in Anda - Cochrane
24 Exhibit 31?

1 MR. MATTHEWS: Objection.

2 THE WITNESS: I believe so.

3 BY MR. NOVAK:

4 Q. Okay. And so basically what you are trying
5 to do is create an automated system that will
6 identify a subset of the orders for controlled
7 substances that come into the company and determine
8 which ones should be reviewed in a little more
9 detail; is that correct?

10 A. Yes.

11 Q. Okay. And so one of the systems that you are
12 attempting to create to do that takes these different
13 criteria, the customer average per month, the
14 customer average per order, the class of trade
15 average per order, and -- and multiplies those
16 figures by a multiplier to see how many orders would
17 be held under that approach?

18 MR. MATTHEWS: Objection.

19 THE WITNESS: I believe that was the -- the
20 rationale, yes.

21 BY MR. NOVAK:

22 Q. You are looking at different averages and
23 different multipliers and saying, hey, how many
24 orders is this going to hold that the company would

1 then review in further detail to determine if they're
2 suspicious?

3 A. Yes.

4 Q. Okay. And at this point you haven't arrived
5 at a conclusion as to how you are going to do this?
6 And when I say "at this point," I mean, October of
7 2011.

8 A. Yes.

9 Q. And what you are relying upon while you are
10 performing this evaluation to prevent orders from
11 going out that shouldn't be going out is the method
12 that was created back in August of '07 based on the
13 5,000 units and performing review of some orders that
14 were in excess of that based on all the due diligence
15 materials that the company gathers?

16 MR. MATTHEWS: Objection.

17 THE WITNESS: No, I don't think that's the
18 case in 2011.

19 BY MR. NOVAK:

20 Q. Okay. You think that the threshold had
21 switched from 5,000 down to 1,000?

22 A. At some point in time, yes, it did.

23 Q. And when that switch was made, was there also
24 a multiplier that was selected to evaluate orders

1 that come in?

2 MR. MATTHEWS: Objection.

3 THE WITNESS: I don't remember.

4 BY MR. NOVAK:

5 Q. Okay. Is the system that was put in place to
6 evaluate orders that replaced the 5,000 unit process
7 that you created in August of 2007 contained anywhere
8 in writing?

9 A. I'm not sure.

10 Q. Okay. Can you describe for me the
11 circumstances that resulted in the initial threshold
12 of 5,000 control units per controlled substance
13 family being lowered to 1,000 units?

14 A. I believe that was the outcome of an
15 inspection by DEA in our Weston location from some
16 point in 2010 when I was out of the office on a
17 medical leave.

18 Q. Okay. So there was a point in time in 2010
19 where DEA officials came in and performed an
20 inspection of Anda's distribution center in Weston?

21 A. Yes.

22 Q. And they indicated that they were no longer
23 comfortable with a 5,000 unit per family threshold?

24 MR. MATTHEWS: Objection.

1 THE WITNESS: I'm not sure. I wasn't there
2 for that. I was out of the office --

3 MR. NOVAK: Okay.

4 THE WITNESS: -- for several months at that
5 point.

6 BY MR. NOVAK:

7 Q. I don't want to get into the personal
8 details, but there was an issue that had you take
9 a -- a leave of absence or otherwise not perform your
10 functions for a period of time at the company?

11 A. Correct.

12 Q. Okay. And that was from when to when?

13 A. I do not remember the exact dates. It was
14 several months towards the end of 2010 though.

15 Q. Okay. And during that time period, who was
16 it who filled in for the performance of your
17 responsibilities at the company?

18 A. It was a joint effort between Emily Schultz,
19 Patrick Cochrane, Jay Spellman, and Albert
20 Paonessa, III.

21 Q. Okay. How many months, roughly, was it?

22 A. I'm not sure. I believe it was at least
23 three.

24 Q. Okay.

1 A. I don't remember, though.

2 Q. And did you work part time during that time
3 period, or were you out altogether?

4 A. Altogether.

5 Q. Okay. Now, at some point in time, a new
6 suspicious order monitoring system was implemented by
7 Anda, correct?

8 A. Yes.

9 Q. And the effect of that new system was to
10 identify orders that would be held for additional
11 review to determine whether they were suspicious and
12 should thus be reported to the DEA?

13 MR. MATTHEWS: Objection.

14 THE WITNESS: Yes.

15 BY MR. NOVAK:

16 Q. Let me go through a few documents to develop
17 an understanding as to how they would relate to that
18 system of identifying orders and determining whether
19 they should be reported as suspicious.

20 (Anda - Cochrane Exhibit 33 was marked for
21 identification.)

22 BY MR. NOVAK:

23 Q. I will start with what's been identified as
24 Anda - Cochrane Deposition Exhibit 33, which is an

1 e-mail thread on or around December 8th of 2010 and
2 bears the Bates Number Anda 76476 through 9.

3 Now, these e-mails start with a request for a
4 customer to receive authorization for controlled
5 products, correct?

6 A. Yes.

7 Q. And looking at the top of page -- the third
8 page of Anda Exhibit 33, Wayne Tischler -- I'm sorry,
9 you write to Wayne Tischler, Richard Strockbine, and
10 Patricia Williams: Very low volume new account.

11 Have them fax a copy of their DEA, since we do not
12 have one, along with one month of dispense data for
13 all products.

14 As of this time in 2010, it would be typical
15 for you to request that type of dispense data as part
16 of the evaluation of an account?

17 MR. MATTHEWS: Objection.

18 THE WITNESS: Yes.

19 BY MR. NOVAK:

20 Q. Okay. And then Richard Strockbine e-mails
21 back to you and says: Attached is the requested
22 one-month dispense data for all products.

23 And then you reply to Mr. Strockbine and
24 state: Denied. Their primary products dispensed are

1 alprazolam, carisoprodol, and hydrocodone 10s. We
2 will not be sell [sic] this customer controlled
3 substances.

4 Do you see that?

5 A. Yes.

6 Q. Why would it be that the primary dispense
7 products of alprazolam, carisoprodol, and hydrocodone
8 could lead you to the conclusion that you should deny
9 sales of controlled substances to this customer?

10 A. Because that was their top products. No
11 regular noncontrolled prescription drugs, as far as
12 their data was concerned, were -- were in their -- in
13 their top products.

14 Q. Okay.

15 A. They were all controlled substances for the
16 most part, or at least these specific ones.

17 Q. And the fact that these were the top products
18 was a red flag for you to make a decision that this
19 is a customer that would be a risky one to sell
20 product -- controlled substance products to?

21 A. Yes.

22 Q. And then on the first page of Exhibit 33,
23 Richard Strockbine asks: Does this mean we will
24 never in their existence sell them controls? Are

1 they blacklisted for life?

2 And you say: Correct.

3 Is that accurate?

4 A. Yes.

5 Q. Okay. So their dispensing data was so bad

6 that you concluded we would never sell to this

7 company?

8 MR. MATTHEWS: Objection.

9 THE WITNESS: Yes.

10 BY MR. NOVAK:

11 Q. Okay. Is this the type of customer that

12 would have been reported by Anda to the DEA in 2010?

13 MR. MATTHEWS: Objection.

14 THE WITNESS: I'm not sure if we were

15 reporting customers that we were denying business

16 to.

17 MR. NOVAK: Okay.

18 THE WITNESS: I think that started at a later

19 date.

20 BY MR. NOVAK:

21 Q. So the mere fact that this company was asking

22 for the opportunity to purchase controlled substances

23 would not have resulted in you reporting them to the

24 DEA as suspicious in December of 2010?

1 A. I do not believe so.

2 (Anda - Cochrane Exhibit 34 was marked for
3 identification.)

4 BY MR. NOVAK:

5 Q. We next have marked Anda - Cochrane
6 Deposition Exhibit Number 34, which is an e-mail
7 exchange between Sabrina Solis, you, and
8 Rachelle Vance as it relates to a customer who is
9 requesting the opportunity to increase the amounts of
10 their orders.

11 Is that a fair characterization?

12 A. Yes.

13 Q. And after you have reviewed the customer, you
14 write to Sabrina Solis and Emily Schultz on Page 1 of
15 the Exhibit 34: Take a look at this. I am thinking
16 we should cut off rather than increase.

17 That's what you wrote to the two of them?

18 A. Yes.

19 Q. And that would have been based on the
20 three-month product usage data that you reviewed?

21 A. I believe so.

22 Q. Okay. And Sabrina states: I agree. The
23 maintenance aren't close.

24 What does that mean as you interpret it?

1 A. I believe she's referring to maintenance
2 drugs, very common products that are prescribed and
3 dispensed by most pharmacies that are noncontrolled
4 products. Could be things along the lines of
5 omeprazole, blood pressure medications. Things along
6 those lines that are regular maintenance drugs that
7 are taken on a very regular basis.

8 Q. Okay. So when we looked early this morning
9 at that Rannazzisi letter that talked about one of
10 the factors in evaluating the process of diversion
11 being the percentage of controlled substances to the
12 percentage of all drugs and tying that into Sabrina's
13 statement, she's saying the other drugs, the
14 noncontrolled drugs, aren't even close to the numbers
15 that they have for the controlled substances that
16 they're dispensing?

17 A. I believe so.

18 Q. Okay. And as a result --

19 MS. RIGBERG: Do you have the Bates? Sorry.

20 MR. NOVAK: What?

21 MR. MATTHEWS: She wants the Bates Number.

22 MR. NOVAK: Oh, I'm sorry. The Bates

23 Number for Anda Exhibit 34 is 70701 through --

24 and 2.

1 MS. RIGBERG: Thank you.

2 BY MR. NOVAK:

3 Q. Do you know if this customer was reported as
4 having submitted a suspicious order?

5 A. I'm not sure.

6 (Anda - Cochrane Exhibit 35 was marked for
7 identification.)

8 BY MR. NOVAK:

9 Q. We next have marked Anda Deposition Exhibit
10 Number 35, which is a two-page e-mail chain with the
11 Anda Bates Numbers 82857 and 8, and it is an e-mail
12 exchange apparently between Michael Cochrane and
13 Howard Davis concerning Pile Drug Store.

14 And in reviewing the customer, you first
15 e-mail Michael Cochrane [sic] on December 1 of 2011
16 and say: Take a look at this account and let me know
17 your thoughts. We have a questionnaire and dispense
18 data in the shared drive.

19 That is what you wrote to Howard Davis?

20 A. Yes.

21 Q. Okay. And Howard Davis at this point in time
22 was the regulatory compliance manager for Anda?

23 MR. MATTHEWS: Objection.

24 THE WITNESS: I can't remember what his title

1 was. I think he was a director of compliance.

2 BY MR. NOVAK:

3 Q. Okay. He reported to you?

4 A. Yes.

5 Q. And Howard wrote back to you that same day,
6 December 1 of 2011, and stated: It looks to me (and
7 therefore I believe it would to the DEA as well) to
8 be a pharmacy in Arkansas near the Texas border that
9 caters to "pain management" individuals. Of the top
10 ten highest drugs dispensed in the pharmacy
11 (including hydrocodone, alprazolam, and Soma), all
12 are classic narcotic cocktails.

13 Do you see that reference?

14 A. Yes.

15 Q. And then he writes: The pain management
16 doctors noted on the referenced questionnaire are
17 approximately 50 miles away from this pharmacy, which
18 is nothing for a drug-seeking individual. The mere
19 fact that at least four other distributors won't
20 provide Schedule II drugs to this pharmacy is also
21 telling to me. If it was up to me, I would close the
22 account and report the pharmacy to the DEA.

23 So he had a pretty clear idea about whether
24 to sell to Pile Drug?

1 A. Yeah.

2 Q. Okay.

3 A. He was a retired DEA agent that was a
4 diversion program manager.

5 Q. Mr. Davis was?

6 A. He was, yes.

7 Q. Okay. And so you asked Mr. Davis: Can you
8 please call this guy and talk to him? He reached out
9 to Paul Bisaro. Let him know we will not be
10 reinstating his DEA and we do not wish to sell him
11 controlled substances.

12 You -- you agreed with him that the company
13 would not sell to Pile Drug, correct?

14 A. Correct.

15 Q. Okay. And he wrote back to you, dated
16 December 19, and stated: I phoned Ronald Morris,
17 pharmacist in charge, Pile Drug Store in Nashville,
18 Arkansas, to let him know that we were unable to sell
19 controlled substances to him based on a suspicious
20 ordering pattern of various controlled substances. I
21 did not say which controlled substances and he did
22 not ask.

23 So Mr. Davis had concluded that this
24 particular store had engaged in a suspicious ordering

1 pattern of various controlled substances, correct?

2 A. Maybe. It could be based on the products

3 that he was ordering from his other distributors.

4 I'm not sure if this was an existing customer or a

5 new customer of ours, but it looks like we reviewed

6 his dispense data.

7 That doesn't necessarily mean he bought those

8 products from us. I'm sure he had a primary and

9 possibly other secondaries, potentially, as a

10 pharmacy.

11 Q. Now, you indicated that Mr. Davis was

12 formerly with the DEA; is that correct?

13 A. Yes, he was.

14 Q. And his conclusion was that this particular

15 pharmacy should be reported to the DEA, correct?

16 MR. MATTHEWS: Objection.

17 THE WITNESS: Yes.

18 BY MR. NOVAK:

19 Q. And specifically he provides that conclusion

20 to you when he says: If it was up to me, I would

21 close the account and report the pharmacy to the DEA.

22 Correct?

23 A. Yes. Yes. And I'm not saying that he didn't

24 do that.

1 Susan Langston and Gayle Lane knew him
2 personally when he was part of the DEA and knew that
3 he was working with us. If it was reported, I don't
4 know that there's any record of it in writing.
5 That's not to say that he didn't make a phone call
6 and reach out to Gayle or someone at the local office
7 and let them know. I don't remember.

8 Q. Okay. You don't know, sitting here today,
9 whether Pile Drug Store was reported by Anda to the
10 DEA, correct?

11 A. I don't know.

12 Q. All right.

13 MR. MATTHEWS: There's somebody on the phone
14 who is rustling papers and making banging noises.
15 Could you please mute your phone so that we can
16 hear here at the deposition? Thank you.

17 (Anda - Cochrane Exhibit 36 was marked for
18 identification.)

19 BY MR. NOVAK:

20 Q. We've next had marked Anda - Cochrane
21 Deposition Exhibit Number 36. That is a one-page
22 e-mail dated December 13, 2011, exchanged between
23 Howard Davis, Michael Cochrane, Emily Schultz, and
24 Sabrina Solis with the Bates Number Anda 82864.

1 It involves Trillion Enterprises, retail
2 pharmacy, in Pinellas Park, Florida.

3 And Mr. Davis writes to you in this e-mail:
4 Dr. Heromin recently received heavy media attention
5 from a DEA raid closing his pain management clinic in
6 Tampa. Pharmacy takes 99 percent cash, 30 percent
7 controlled substances, 30 percent noncontrolled
8 substances. Pharmacy estimates controlled substance
9 ratio to be 8.6 to 1. Does not specify which number
10 is controls. The pharmacy dispense data log reveals
11 heavy narcotic cocktails. Heaviest is Oxy 30
12 milligram at Number 2670. Pharmacy max at 2100 Oxy
13 last four months running, including December 11th.

14 These are all factors that Howard Davis
15 believes are important considerations in evaluating
16 this pharmacy, correct?

17 A. Yes. I believe we all do. Howard was
18 trained by our people, so he --

19 Q. Okay.

20 A. We were all on the same page as far as these
21 being significant factors.

22 Q. And in the last sentence of the e-mail, he
23 states to you: I recommend that the pharmacy not
24 receive increases in controlled substances and be

1 reported to the DEA.

2 Do you know if that was done?

3 A. I -- I don't. I'd have to look at past
4 reports and see if it was something that we submitted
5 to them or not.

6 Q. Okay. Do you know if there was a submission
7 of a Suspicious Order Report as it relates to
8 Trillion Enterprises in Pinellas Park, Florida?

9 A. No, I don't.

10 (Anda - Cochrane Exhibit 37 was marked for
11 identification.)

12 BY MR. NOVAK:

13 Q. Next we've had marked Anda - Cochrane
14 Deposition Exhibit 37, which is a multiple page
15 document, the front of which is an e-mail from
16 Michael Cochrane to Albert Paonessa concerning Pile
17 Drug Store. And the Bates Number for the document is
18 Anda 726938 and 939.

19 Now, in this e-mail, you brought to Albert
20 Paonessa's attention that the customer had been
21 talked to and that Anda would not be selling them
22 controlled substances, correct?

23 A. Yes.

24 Q. And then you said: Please see e-mail below.

1 Correct?

2 A. Yes.

3 Q. Okay. Did you have a discussion with
4 Mr. Paonessa regarding the reference on the second
5 page of Anda - Cochrane Exhibit 37 that Mr. Davis had
6 made that, quote: If it was up to me, I would close
7 the account and report the pharmacy to the DEA?

8 A. I -- I don't remember having that discussion.

9 Q. Okay.

10 MR. NOVAK: Let's take a break.

11 THE VIDEOGRAPHER: Off the record at 4:15.

12 (Recess from 4:15 until 4:35 p.m.)

13 THE VIDEOGRAPHER: The time is 4:35. We are
14 now back on the record.

15 BY MR. NOVAK:

16 Q. Mr. Cochrane, are you familiar with a
17 customer of Anda during your time there known as Lake
18 Erie Medical?

19 A. It sounds familiar.

20 (Anda - Cochrane Exhibit 38 was marked for
21 identification.)

22 BY MR. NOVAK:

23 Q. I have handed you what's been marked as Anda
24 - Cochrane Exhibit 38, which is a two-page -- I'm

1 sorry, just a one-page document bearing the Anda
2 Bates Number of 282942. It appears to be an exchange
3 between you and Mr. Paonessa with respect to an
4 increase in the limit for controlled substance sales
5 to Lake Erie Medical.

6 Now, this is back in the October 25, 2007,
7 time frame. That's the time frame where the Anda
8 standard operating procedure that is set forth in
9 Deposition Exhibit 8 would be applicable, correct?

10 A. Yes.

11 Q. Okay. So this is an increase substantially
12 above the 5,000 units per month standard set out in
13 Anda Deposition Exhibit 8 to 75,000 dosage units per
14 month.

15 Why would you propose that much of an
16 increase for Lake Erie Medical?

17 MR. MATTHEWS: Objection.

18 THE WITNESS: I'm not sure. I would have to
19 have the file in front of me and see. I'm
20 assuming it was warranted if I were to e-mail Al
21 for an approval. That volume looks to be
22 probably a distributor or a repackager customer
23 of ours, potentially. I don't know. I can't
24 remember back to 2007 for that specific customer,

1 though.

2 BY MR. NOVAK:

3 Q. Okay. You mentioned a repackager. How do
4 you evaluate a repackager customer of Anda's to
5 determine whether they are engaging in appropriate
6 distribution of the product to make you feel
7 comfortable selling opioids to them?

8 A. At that point in time, we probably had all
9 their policies and procedures on hand as part of the
10 due diligence packet of information that we would
11 have gathered from them since they weren't, you know,
12 our typical pharmacy customer, so to speak. They
13 were a distributor or a repackager.

14 Q. You wouldn't have dispensing data for a
15 repackager, correct?

16 A. No, I don't think we would.

17 Q. Would you have any identification of who
18 their customers were?

19 A. I'm not sure if we did or not.

20 Q. Okay. Typically, for a repackager, would you
21 obtain that type of information?

22 A. We may have requested it, but most of the
23 distributor/repackager customers couldn't divulge
24 that information. It's trade secret and proprietary

1 to their business. If we requested it, I'm not sure
2 we received it or not.

3 (Anda - Cochrane Exhibit 39 was marked for
4 identification.)

5 BY MR. NOVAK:

6 Q. We've had next marked as Anda Deposition
7 Exhibit 39 a document that is comprised of multiple
8 pages. The top page is an e-mail exchange between a
9 number of individuals but is addressed from Jeannie
10 at Lake Erie Medical to you and is dated June 4,
11 2008, and the Bates Number for the document is Anda
12 276293 through 276299.

13 And in the top e-mail, Jeannie writes to you
14 in June of 2008: Hi, Michael. Mike Holmes asked me
15 to send this to you. This is a copy of our letter
16 from the DEA and our response from the DEA. We also
17 will forward you our written plan of action.

18 Do you see that reference?

19 A. Yes.

20 Q. Okay. Now, one of the attachments to that
21 e-mail is a two-page correspondence from the
22 Department of Justice dated February 26th of 2008
23 where the Department of Justice Drug Enforcement
24 Administration notifies Michael Holmes, the president

1 of Lake Erie Medical and Surgical Supply, that they

█ [REDACTED]

█ [REDACTED]

█ [REDACTED]

█ [REDACTED]

█ [REDACTED]

█ [REDACTED]

█ [REDACTED]

█ [REDACTED]

█ [REDACTED]

█ [REDACTED]

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█ [REDACTED]

█ [REDACTED]

█ [REDACTED]

█ [REDACTED]

█ [REDACTED]

█ [REDACTED]

█ [REDACTED]

█ [REDACTED]

█ [REDACTED]

█ [REDACTED]

█ [REDACTED]

24 A. Yeah. I don't know -- I don't know how or

1 how it came about or who notified us.

2 Q. When you say you don't know who notified you,
3 isn't this e-mail from Jeannie at Lake Erie Medical
4 to you on June of 2008 a notification?

5 A. Yes. From -- from Lake Erie. I'm saying I
6 don't know if anybody else other than Lake Erie made
7 us aware of this.

8 Q. Okay. And they also sent to you their draft
9 response to the DEA, correct?

10 A. Yes.

11 Q. And in that response, at the page ending with
12 Bates Number 296 discussing corrective action for the
13 issue of whether they had a sufficient system to
14 disclose suspicious orders of controlled substances,
15 they replied, quote: The establishment of a system
16 to disclose suspicious orders is a plan of ours that
17 is a work in progress.

18 Do you see that reference?

19 A. Yes.

20 Q. And then in this following page, they state:
21 We are in the process of establishing electronic
22 formulas to aid a compliance officer in the
23 controlled substance -- the controlled substance
24 committee. These procedures will also be made part

1 of standard operating procedures in the near future.

2 Do you see that?

3 A. Yes.

4 Q. So as of this time in June of 2008, was your
5 understanding that they didn't have a controlled
6 substance suspicious order monitoring system in place
7 but that they were in the process of establishing
8 electronic formulas to aid the compliance officer and
9 the controlled substance committee and those
10 procedures would be part of the standard operating
11 procedure in the near future?

12 A. Yes.

13 Q. And that was on approximately June 4th of
14 2008, correct?

15 A. Yes.

16 (Anda - Cochrane Exhibit 40 was marked for
17 identification.)

18 BY MR. NOVAK:

19 Q. We've next had marked Anda Deposition
20 Exhibit 40 -- Anda - Cochrane Deposition Exhibit 40,
21 which is a two-page e-mail dated on or about
22 June 17th of 2008 between you and Al Paonessa.

23 And in the first e-mail in the chain dated
24 June 17th of 2008, you wrote to Mr. Paonessa and

1 said: Al, I need your approval to change the monthly
2 dosage limit percentage on the account listed below
3 from 14,000 -- 1,400 percent to 2,400 percent,
4 allowing them to purchase up to 125,000 dosage units
5 a month.

6 Do you see that reference?

7 A. Yes.

8 Q. And that's for Lake Erie Medical, correct?

9 A. Yes.

10 Q. So less than two weeks after you learned that
11 Lake Erie Medical had been cited by the DEA as being
12 in violation of the Controlled Substances Act for
13 failing to have sufficient suspicious order
14 monitoring programs in place, you proposed to
15 Mr. Paonessa that they have an increase in the
16 controlled substance purchases limits that Anda would
17 allow for them?

18 A. Yes.

19 Q. To 125,000 dosage units per month?

20 A. Yes. We must have had calls and dialogue and
21 also a copy of their corrective action plan. I can't
22 remember this far back.

23 Q. Okay. The document we looked at that was
24 13 days earlier than this indicated that those plans

1 were in the works. Had you seen something in between
2 June 4th and June 17th that indicated that they had
3 been finalized?

4 MR. MATTHEWS: Objection. Argumentative.

5 THE WITNESS: I'm not sure.

6 BY MR. NOVAK:

7 Q. At any rate, Mr. Paonessa approves the
8 increase to 125,000 dosage units per month for a
9 company that you learned two weeks earlier was in
10 violation of the Controlled Substances Act?

11 MR. MATTHEWS: Objection. Argumentative.

12 THE WITNESS: Yes.

13 BY MR. NOVAK:

14 Q. Did you continue to increase the limits for
15 Lake Erie after that?

16 A. I'm not sure.

17 MS. RIGBERG: What was the Bates Number on
18 that Document 40 -- Exhibit 40?

19 MR. NOVAK: I'm sorry. It was Anda 273585.

20 And thanks for catching me on that.

21 MS. RIGBERG: No problem.

22 (Anda - Cochrane Exhibit 41 was marked for
23 identification.)

24 ///

1 BY MR. NOVAK:

2 Q. We've had marked next Anda - Cochrane
3 Deposition Exhibit 41, which is a two-page
4 correspondence regarding Lake Erie Medical in April
5 of 2010.

6 And this correspondence seeks another
7 increase in Lake Erie Medical's controlled substance
8 purchasing limit, correct?

9 A. Yes.

10 Q. And specifically, the proposal that is made
11 by Lake Erie, they state in an e-mail to Norman Dodes
12 that: Currently. Our hydrocodone allocation is
13 125,000 pills per month, and our allocation for CIIs
14 is currently 125,000 pills per month per chemical.

15 And they request that the hydrocodone limit
16 be doubled to 250,000 pills and that their
17 Schedule II allocation be increased to 375,000 pills
18 per month per chemical.

19 Is that your understanding?

20 A. Yes.

21 Q. And who is Norman Dodes, by the way?

22 A. He is a national account director, sales.

23 Q. Okay. So he's the salesperson at Anda. And
24 he submits this request to you in April 14 of 2010 to

1 have you take a look at it, saying: Please read
2 below. We need to raise their control limits.

3 Is that correct?

4 A. Yes.

5 Based on this e-mail, too, it looks like one
6 of the things that we had agreed to with them was
7 actually receiving customer info so that we could
8 look at who they were selling to and they were
9 sending us updates on a monthly basis that we were
10 filing -- were reviewing and filing, along with the
11 rest of the due diligence documentation that we had
12 on them.

13 They actually agreed to give us their
14 customer info.

15 (Anda - Cochrane Exhibit 42 was marked for
16 identification.)

17 BY MR. NOVAK:

18 Q. Now, we've had marked Anda - Cochrane
19 Deposition Exhibit 42, which is a --

20 MS. RIGBERG: Sorry. One sec. We need the
21 Bates for 41.

22 MR. NOVAK: Oh, did I skip that one, too?

23 I'm sorry. It was Anda 79605 and 606.

24 ///

1 BY MR. NOVAK:

2 Q. We have next marked Anda - Cochrane
3 Deposition Exhibit 42, which is an April 21, 2010,
4 exchange of e-mails between Michael Cochrane, Albert
5 Paonessa, and Norman Dodes.

6 And it starts with an e-mail from you to
7 Al Paonessa saying: Al, I need your approval to
8 change the monthly dosage limit on the account listed
9 below from 2,400 percent to 3,900 percent, allowing
10 them to purchase up to 200,000 dosage units per
11 month.

12 So you increased the limit but not as much as
13 the 250,000 limit per family that they had requested.
14 Is that -- is that a fair characterization of your
15 request to Al Paonessa?

16 A. Yes.

17 Q. Okay. And he approved that request?

18 A. Yes.

19 MR. NOVAK: And if I failed to do it, the
20 Bates Number for Anda - Cochrane Exhibit 42 ends
21 with Anda 283178.

22 MS. RIGBERG: Thank you.

23 (Anda - Cochrane Exhibit 43 was marked for
24 identification.)

1 BY MR. NOVAK:

2 Q. The next document we've marked is Anda -
3 Cochrane Exhibit 43, which is a two-page document
4 bearing the Bates Number Anda 13345 [sic] and 6,
5 which is an e-mail exchange between several people,
6 but including you and Emily Schultz related to
7 another requested increase for the -- the limit to
8 sell controlled substances to Lake Erie Medical.

9 Is that accurate?

10 A. Yes.

11 MR. NOVAK: Oh, I'm sorry. I misstated the
12 Bates Number. It's 133445.

13 BY MR. NOVAK:

14 Q. Now, in this particular exchange,
15 Emily Schultz writes to you and says on March 29th of
16 2011: Looks like you have been approving all of the
17 requests for this account. Do you want to review or
18 should I increase based on what they requested?
19 150,000 Oxy sounds like a ton.

20 Do you see that reference?

21 A. Yes.

22 Q. Did you agree with Emily Schultz's
23 characterization that 150,000 OxyContin units per
24 month sounded like a ton?

1 A. I don't remember.

2 Q. Do you know whether that increase was
3 approved?

4 A. I do not.

5 Q. Do you know who Jeannie Sierin is?

6 A. Say the name again.

7 Q. Jeannie, Sierin, S-i-e-r-i-n.

8 A. No. I don't -- not that I remember.

9 (Anda - Cochrane Exhibit 44 was marked for
10 identification.)

11 BY MR. NOVAK:

12 Q. We've had marked Deposition Exhibit Anda -
13 Cochrane 44, which is a two-page e-mail exchange that
14 includes Mr. Cochrane, Norman Dodes, and some
15 individuals from Lake Erie Medical. It is dated
16 June 28th of 2011, at least one of the e-mail is, and
17 it bears the Anda Bates Number 79594 and 79595.

18 In the e-mail that begins the thread on the
19 second page, there is an e-mail to you from Gene
20 Gunderson at Lake Erie Medical, where he asks: Have
21 you had a chance to review our requests for
22 increasing our allocations?

23 Do you see that?

24 A. Yes.

1 Q. Okay. Now, you respond to that e-mail on the
2 first page of Anda Exhibit 44 and state in part,
3 quote: I reviewed your customer listing and
4 increased your limits. Please try to understand,
5 with all of the changes we have made, you are one of
6 two distributors/repackagers we even sell to and
7 definitely have our highest allocation.

8 Is that an accurate statement as of June 28th
9 of 2011?

10 A. I think so.

11 Q. Okay. Who was the other
12 distributor/repackager that Anda was selling to in
13 June of 2011?

14 A. I can't remember that.

15 Q. Okay. But this customer was your highest
16 allocation repackager.

17 Is that accurate?

18 A. It appears so.

19 Q. What is a repackager?

20 A. They take finished units of product and
21 repackage them into smaller dosage units. So they'll
22 take a bottle of a hundred and make, say, a blister
23 pack of ten.

24 Q. Okay. During the time that you served in

1 your compliance role at Anda, did the company have a
2 change in policy as to selling controlled substances
3 to repackagers?

4 A. Yes. At some point we discontinued sales to
5 distributors and repackagers with apparently the
6 exception of two.

7 Q. Okay. And why was it you changed your policy
8 as it related to selling controlled substances to
9 repackagers?

10 A. It coincided with us discontinuing sales to
11 physicians in the years prior and not wanting the
12 distributor or repackager customer base touching
13 physicians that we potentially weren't going to
14 distribute to.

15 But in this instance with Lake Erie, we
16 actually had monthly updates with them as far as who
17 their customer base consisted of and they provided us
18 documentation on all their new accounts.

19 Q. What was the threshold at this point when you
20 had approved 150,000 units per month of OxyContin to
21 Lake Erie Medical? What was the threshold that Anda
22 used as its default threshold for accounts that it
23 sold to?

24 MR. MATTHEWS: Objection. Asked and

1 answered. Clearly argumentative.

2 Go ahead.

3 You've asked all about the thresholds that
4 existed at a variety of periods of time. You
5 spent hours. We're at 5:04 p.m. in the
6 afternoon. The only reason to ask that question
7 at this time is because you want to badger the
8 witness about what he's testified about this
9 morning.

10 MR. NOVAK: James, that -- it's -- that's in
11 violation of the Court's speaking objection. If
12 you think the record is clear as to what
13 thresholds exists at different points in time,
14 feel free to enlighten me as to where in the
15 earlier portion of the deposition that statement
16 was made.

17 MR. MATTHEWS: Thirty minutes ago, he
18 testified as of 2011 the baseline limit was 1,000
19 units per dosage per product family per month.
20 Thirty minutes ago. He probably testified about
21 seven times over the course of this day.

22 So don't lecture me about whether the record
23 is clear or not. You know, I'm trying to be
24 patient here. It is 5:04 p.m. You -- you know,

1 are wearing out the witness, and you are asking
2 questions that were answered for no other reason
3 than to create the impression -- you know, to
4 badger this witness about this particular line of
5 questions about this particular client.

6 You don't need to ask it. We are wasting
7 time. Let's move on.

8 BY MR. NOVAK:

9 Q. Is it your testimony, Mr. Cochrane, that as
10 of this time in 2011 that the threshold control limit
11 for Anda customers is 1,000 units per controlled
12 substance family?

13 A. Yes. At some point in 2010, we dropped the
14 limits to 1,000 dosage units for new customers that
15 were opening an account with Anda.

16 Q. Can you give a general description of what
17 the process is to submit an order for a customer of
18 Anda's to the company?

19 A. There were numerous ways orders could be
20 submitted. Some used our online ordering system. We
21 had sales reps that received inbound phone calls. We
22 had customers that were using the CSOS platform for
23 the electronic ordering of controlled substances in
24 the Schedule II form. Sales reps could key orders

1 based on phone conversations with customers. They
2 could either be inbound or outbound.

3 I believe we had some orders that came
4 through EDI, depending on the size of the customer
5 and what their business primarily focused on. I
6 think some of the stuff that was EDI may have been
7 chain-oriented for some of our larger customer
8 groups.

9 That's pretty much all I can think of right
10 now.

11 Q. Okay. And which of those different orders
12 does -- did Anda apply its process for or -- or its
13 suspicious order monitoring system to in order to
14 evaluate whether they were suspicious orders?

15 MR. MATTHEWS: Objection.

16 THE WITNESS: All of them. All of the orders
17 funneled into one main warehouse operating
18 system.

19 BY MR. NOVAK:

20 Q. Is that after the orders were placed into
21 TPS?

22 A. Correct.

23 Q. Okay.

24 (Anda - Cochrane Exhibit 45 was marked for

1 identification.)

2 BY MR. NOVAK:

3 Q. We've had marked Anda - Cochrane Exhibit 45,
4 which is a one-page e-mail exchange between Jerry
5 Cazzell and Michael Cochrane dated February 21st of
6 2006.

7 Who is Jerry Cazzell?

8 A. Jerry Cazzell was the VP of IT.

9 MR. NOVAK: I misspoke. This is Anda -
10 Cochrane Exhibit 45?

11 THE COURT REPORTER: It's 45.

12 MR. NOVAK: Okay. 45.

13 MS. RIGBERG: Bates Number, please.

14 MR. NOVAK: Anda 155184.

15 BY MR. NOVAK:

16 Q. Is it Mr. Cazzell that you had interactions
17 with in figuring out how to create a suspicious order
18 monitoring system that -- the logistics of filtering
19 orders that would be held for review?

20 A. No.

21 Q. Who would that have been?

22 A. John Jefferson and his IT AS400 development
23 group. Deanne Lykins, you've seen e-mail exchanges
24 with her.

1 Q. Right.

2 A. Douglas Liddendal was involved at one point.
3 Potentially Debbie Abelow. That's all I can think of
4 right now.

5 Q. Okay. Now, in the third paragraph of the
6 e-mail that Jerry Cazzell sends to you, he writes:
7 We can document the steps in the process of receiving
8 an order, checking the CRL, opening the order, and
9 placing it in TPS to be processed. Do you want some
10 type of data flow diagram of this process?

11 You see that reference?

12 A. Yes.

13 Q. Okay. Can you describe for me the different
14 steps that are referenced there -- because I never
15 did find a data flow diagram of it -- as to what each
16 of those different steps entails?

17 A. He's referring to a CSOS order coming in,
18 which is the electronic method of ordering controlled
19 substances. Checking the CRL means checking the
20 certificate revocation list that was -- that was
21 monitored and -- it was DEA's certificate revocation
22 list as far as the electronic certificate for signing
23 the actual order.

24 Opening the order that comes in, because

1 there is an electronic signature that I believe had a
2 specific encryption and we had software that would, I
3 guess, unencrypt it. And then the order
4 electronically flowing into TPS, which is the system
5 that we used for all of our warehouse management
6 pick, pack, and ship operation.

7 Q. Okay. Is -- are there instances after an
8 order has been received in CSOS where they are not
9 placed into TPS to be processed?

10 A. Not that I'm aware of.

11 Q. Okay. How about orders that come in in the
12 other methods that you referenced an answer or two
13 ago? Say, for example, a telephonic order that comes
14 in to one of the sales representatives. Are all of
15 those orders placed into TPS?

16 MR. MATTHEWS: Objection.

17 THE WITNESS: I'm not sure. I would assume.

18 BY MR. NOVAK:

19 Q. Okay. Are there instances where orders are
20 not placed into TPS because they exceed a control
21 limit?

22 A. There's a -- I believe there's a hard stop on
23 the limit where it won't let them place the order.

24 Q. Okay. So in those instances, an order would

1 be received by a customer but they would be unable to
2 place it into the TPS system?

3 MR. MATTHEWS: Objection.

4 THE WITNESS: I'm not sure. I believe it
5 would go into the TPS system, but it would zero
6 the line out or give them whatever allocation
7 they had left against their monthly limit.

8 BY MR. NOVAK:

9 Q. In those instances where it is zeroed out,
10 what does that mean?

11 A. It means it just didn't go through the
12 allocation process to relieve inventory, but there's
13 a record of the order coming in is what I believe to
14 have -- is what I believe to happen.

15 Q. Okay. At that point, is an order that is
16 zeroed out evaluated by the company's suspicious
17 order monitoring system?

18 A. I believe they were, because the hold process
19 was prior to inventory allocation. So whether or not
20 the line item was going to ship, if it came in and
21 was keyed, it should have gone on hold. And all that
22 happened before the inventory allocation process is
23 what I believe to -- is what I believe -- is what I
24 think how the system worked.

1 Q. Okay.

2 A. Since they put -- we were put on hold before
3 allocation, it didn't relieve inventory. But you
4 would have to ask an IT person.

5 Q. Okay. Have you heard the term "the bucket"
6 as it relates to the performance of the
7 responsibilities in the compliance department at
8 Anda?

9 A. Yeah, I do believe I have heard of that.

10 Q. Okay. And what does that mean to you?

11 A. There were several types of different hold
12 statuses in our system. Our bucket was just a
13 different type of a hold in the system, meaning
14 orders that were up for review were placed in a
15 bucket, so to speak.

16 Q. And how does an order get placed in the
17 bucket?

18 MR. MATTHEWS: I'm sorry, were you finished
19 with your answer? It was not clear to me you
20 were finished with your answer.

21 THE WITNESS: The system -- the specific
22 things that we've programmed into the system
23 warrant whether or not it would go on our hold --
24 in our hold bucket. Our hold bucket was the last

1 one before allocation.

2 I believe there was a user hold bucket where
3 a sales rep could have an order that's pending
4 and he's waiting for a response from a customer.
5 There was a credit hold bucket, so to speak,
6 where if customers had specific credit issues,
7 they go into the credit hold bucket. And so on.

8 I don't remember specifically how many there
9 were, what all their titles were, but we had one,
10 and it was our bucket, so to speak, from a hold
11 standpoint. The last things that goes through
12 from a checks and blanks thing were -- was our
13 bucket in the hierarchy of the orders being held.

14 BY MR. NOVAK:

15 Q. Okay. If I understand that correctly, what
16 you're suggesting is there is almost a sequence --

17 A. Yes, they have a sequence.

18 Q. -- of buckets that an order will go through
19 prior to being filled by the company?

20 A. Yes, I believe that's how it worked.

21 Q. And the last bucket in the sequence is the
22 allocation bucket where inventory is drawn down to
23 fill the order?

24 A. Yes.

1 Q. Okay. The bucket before that is your bucket
2 that relates to whether the order passes under the
3 company's suspicious order monitoring system?

4 A. I believe so.

5 Q. Okay. Before that, there are also buckets
6 related to credit and buckets related to sales?

7 A. Yeah. I believe those -- I believe a rep
8 could put an order on hold if he was waiting for a
9 response from a customer.

10 Q. Okay. And is it possible that some orders
11 never get to the compliance evaluation process that
12 is in the suspicious order monitoring system because
13 they have been stopped in the sales bucket or in the
14 credit bucket?

15 A. I guess there's a potential for that.

16 Q. Okay. Do you know if those orders are ever
17 evaluated for a determination as to whether they are
18 suspicious?

19 MR. MATTHEWS: Objection.

20 THE WITNESS: No, I don't.

21 THE VIDEOGRAPHER: The time is 5:19 p.m. We
22 are going off the record.

23 (Recess from 5:18 until 5:32 p.m.)

24 (Anda - Cochrane Exhibit 46 was marked for

1 identification.)

2 THE VIDEOGRAPHER: Time is 5:32 p.m. We are
3 now back on the record.

4 BY MR. NOVAK:

5 Q. We've had marked as Anda Deposition Exhibit
6 Number 46 a two-page correspondence from the
7 Department of Justice Drug Enforcement Administration
8 to Albert Paonessa at Anda dated November 18, 2011,
9 bearing the Bates Numbers Anda 1208 and 1209.

10 Mr. Cochrane, have you seen Anda Exhibit --
11 Anda - Cochrane Exhibit 46 before?

12 A. Yes.

13 Q. Okay. In it, the Department of Justice's
14 Drug Enforcement Administration issues a letter to
15 Anda and states that an investigation of the Miami
16 Field Division revealed the following violations of
17 Controlled Substance Act of 1970 and the regulations
18 promulgated thereunder.

19 Is that accurate?

20 A. Yes.

21 Q. This was based on a Department of Justice
22 Drug Enforcement Administration inspection and
23 investigation of Anda's practices?

24 A. Yes.

1 Q. Okay. And look at the first violation that
2 the Department of Justice Drug Enforcement
3 Administration cited Anda for. They noted that Anda
4 had failed to maintain a complete and accurate record
5 of all controlled substances on hand the date the
6 inventory the taken.

7 Do you see that reference?

8 A. Yes.

9 Q. And that was based upon an incomplete
10 inventory record at Anda's warehouse facility?

11 A. Yes.

12 Q. And then the second violation found by the
13 U.S. Department of Justice's Drug Enforcement
14 Administration as it related to Anda's practices was
15 a failure to report to DEA suspicious orders for
16 controlled substances as required by Title 21 CFR
17 section 1301.74.

18 Do you see that?

19 A. Yes.

20 Q. Okay. And the letter recites after that:
21 Prior to DEA's onsite investigation at Anda during
22 July of 2010, DEA met with the firm during 2005 and
23 2007 to discuss Anda's pattern of distribution of
24 significant quantities of controlled substances to

1 its customers.

2 Do you see that reference?

3 A. Yes.

4 Q. Were you a participant in the meeting with
5 the DEA that is referenced here as having occurred in
6 2005?

7 A. Yes.

8 Q. And were you a participant in the meeting
9 that is referenced here as having been held with the
10 DEA and representatives of Anda in 2007?

11 A. Yes.

12 Q. The 2007 meeting was the July of '07 meeting
13 that you've testified about earlier today?

14 A. I believe it was July.

15 Q. What was the -- what was the subject of the
16 2005 meeting?

17 A. 2005 was a meeting with Michael Mapes
18 regarding Internet pharmacies.

19 Q. Okay. So the DEA had expressed concern in
20 the 2005 investigation of Anda that the company
21 wasn't fulfilling its obligations as it related to
22 suspicious order monitoring for controlled substances
23 by Internet pharmacy customers?

24 MR. MATTHEWS: Objection.

1 THE WITNESS: That meeting was not
2 necessarily regarding suspicious orders. That
3 meeting was specifically regarding high-volume
4 pharmacies that were doing controlled substance
5 business over the Internet that were Internet
6 pharmacies.

7 We talked with Michael Mapes, Kyle Wright;
8 took their advice: Reviewed that specific group
9 of customers in that trade class; searched our
10 system for any that might not have been
11 categorized that way; and we discontinued
12 controlled substance sales to all of them.

13 BY MR. NOVAK:

14 Q. When you say "all of them," you mean all of
15 the Internet pharmacies?

16 A. Correct.

17 Q. And when you say "sales" to them, you mean
18 direct sales to them?

19 A. Yes.

20 MR. MATTHEWS: Objection.

21 BY MR. NOVAK:

22 Q. And then we've already discussed to some
23 extent the 2007 meeting.

24 The letter continues by stating: A DEA

1 report of investigation 2008 documents a statement by
2 an Anda official that customers are limited to
3 purchasing no more than 5,000 dosage units per month
4 in certain chemical families.

5 Do you know who the Anda official that they
6 are referencing there is?

7 A. No.

8 Q. Okay. And then the second page of the U.S.
9 Department of Justice's Drug Enforcement
10 Administration notice of violation letter states
11 that: Analysis of Anda's distribution of oxycodone
12 during 2009 and 2010 reveal substantially significant
13 sales to numerous customers which consistently met
14 and exceeded 5,000 dosage units per month.

15 You don't disagree with that statement, do
16 you?

17 A. No. We had some customers that were ordering
18 more than 5,000 dosage units. That was discussed
19 with DEA in 2007, like I had previously said, and
20 there was a process to grant customers an approval
21 for more than the 5,000 dosage units. And DEA
22 recognized the fact that there were going to be
23 customers that needed that.

24 Q. Okay. Now, you say they recognized it, but

1 that was a factor that they cite here for purposes of
2 finding that Anda was in violation of the Controlled
3 Substances Act, correct?

4 MR. MATTHEWS: Objection.

5 THE WITNESS: Yes.

6 (Anda - Cochrane Exhibit 47 was marked for
7 identification.)

8 BY MR. NOVAK:

9 Q. We've had marked Anda - Cochrane Deposition
10 Exhibit 47, which is -- or appears to be Anda's
11 response to the letter finding violations of the
12 Controlled Substance Act. And this document is dated
13 December 6, 2011, and bears the Bates Numbers Anda
14 1210 through 1212.

15 The document is signed by Albert Paonessa.
16 But were you the one who drafted the document?

17 A. I think it was a joint effort between
18 internal counsel, myself, Al.

19 Q. Okay. And you submitted this correspondence
20 in reaction to the DEA's letter -- or in response to
21 the DEA's letter?

22 A. Yes.

23 (Anda - Cochrane Exhibit 48 was marked for
24 identification.)

1 BY MR. NOVAK:

2 Q. We've had marked as Anda - Cochrane Exhibit
3 Number 48 a document comprised of three pages. The
4 first is an e-mail from Howard Davis to Michael
5 Cochrane dated November 30th of 2011, and then
6 attached to that is a two-page draft correspondence
7 that was drafted for purposes of responding to the
8 DEA.

9 Is this one of the drafts that you
10 referenced, Mr. Cochrane, that you participated in as
11 it related to preparing a response to the DEA's
12 finding of a violation of the Controlled Substances
13 Act by Anda?

14 A. I don't specifically remember this draft, but
15 it looks like it came from Howard Davis, who was the
16 newest member of our group from a compliance
17 perspective.

18 Q. Okay. Were you involved in hiring Howard
19 Davis?

20 A. Yes.

21 Q. How long was he at Anda?

22 A. I don't remember. Approximately three
23 months, maybe.

24 Q. Okay. What were the circumstances

1 surrounding his departure?

2 A. Howard, even though he had multiple years of
3 experience and was a diversion program manager at one
4 point for four different states, he had zero to add
5 to the program that we had put together from a
6 suspicious orders system as far as due diligence was
7 concerned. One of his responses to Al and I were --
8 was that he is baffled that DEA is even breathing
9 down our neck I think is the words -- are the words
10 that we used with all that we have in place right now
11 and what we're doing.

12 From a contribution standpoint, there was
13 really no value there.

14 Q. Was he ultimately terminated by the company?

15 A. Yes.

16 MR. MATTHEWS: Can I ask a question? Is this
17 one exhibit or two exhibits?

18 MR. NOVAK: One.

19 MS. RIGBERG: Could we please get that Bates
20 Number?

21 MR. NOVAK: Yes. The last one was Anda 82872
22 through 82874.

23 MS. RIGBERG: Thank you.

24 (Anda - Cochrane Exhibit 49 was marked for

1 identification.)

2 BY MR. NOVAK:

3 Q. The next document that has been marked for
4 identification purposes is Anda - Cochrane
5 Exhibit 49, which is comprised of three pages of
6 e-mail exchanges between Mr. Cochrane, Emily Schultz,
7 Albert Paonessa, Patrick Cochrane, and others, also
8 apparently relating to the DEA's finding of violation
9 of the Controlled Substances Act.

10 Mr. Cochrane, is this an exchange -- or do
11 these three pages of e-mail constitute an exchange
12 that you had with the different individuals
13 referenced as it relates to developing a draft of the
14 response to the DEA letter?

15 A. Yes.

16 MR. NOVAK: I should have noted that it bears
17 the Anda MDL Bates Number 133111 through 113.

18 BY MR. NOVAK:

19 Q. Now, on the second page of the document,
20 Mr. Davis writes to you and writes in part: You may
21 want to consider adding a brief compliment to them
22 about their professionalism, et cetera. They like
23 that, and it keeps the tone nicer throughout the rest
24 of the response. Better to schmooze early to lower

1 their guard.

2 Do you see that?

3 A. No. Where is that?

4 Q. At the second page.

5 A. Yes.

6 Q. All right. And your follow on e-mail to
7 Al Paonessa and Patrick Cochrane states: I added
8 some fluff after preparing our letters and discussing
9 with Howard. Howard says they love fluff. Please
10 see attachment and read Howard's e-mail below.

11 Is that what you stated to your brother,
12 Patrick Cochrane, and Mr. Paonessa?

13 A. Yes.

14 Q. The other point that Howard addresses in his
15 e-mail of December 1 to you, he states: By reading
16 between the lines, the DEA is telling us that they
17 view 5,000 d.u. per month in certain chemical
18 families as questionably too high. I don't know
19 where they came up with the chemical families line,
20 but, again, I certainly wouldn't debate it.

21 Do you see that reference?

22 A. Yes.

23 Q. Is that a reference to the 5,000
24 controlled -- dispensable units controlled substance

1 threshold that you've identified as being part of
2 Anda's system for a period of time?

3 A. Yes, based on guidance from DEA during that
4 period of time.

5 Q. Okay. And was it in response to the DEA's
6 letter of violation to Anda that the -- the 5,000
7 threshold was lowered to 1,000?

8 MR. MATTHEWS: Objection.

9 THE WITNESS: I don't know if it was -- it
10 may be in this response, but it was done prior to
11 us receiving this letter that came, I think,
12 approximately 17 months after the inspection.

13 BY MR. NOVAK:

14 Q. That's all I have on that exhibit.

15 Now, it was a while ago, but do you recall
16 from this morning's testimony you had identified that
17 pain management clinics were one of the next
18 frontiers that the DEA was warning about in 2007 at
19 the HDMA and industry conferences?

20 MR. MATTHEWS: Objection.

21 THE WITNESS: I don't specifically remember
22 that from this morning but -- is there an exhibit
23 or -- yeah, the HDMA memo?

24 MR. NOVAK: Yes.

1 THE WITNESS: Yes.

2 BY MR. NOVAK:

3 Q. When did Anda make a determination to reduce
4 its sales to pain management clinics?

5 MR. MATTHEWS: Objection.

6 THE WITNESS: I'm not sure. I think it was
7 in 2008, 2009. I can't remember the exact year.

8 (Anda - Cochrane Exhibit 50 was marked for
9 identification.)

10 BY MR. NOVAK:

11 Q. We've had marked Anda - Cochrane Deposition
12 Exhibit Number 50, which is a June 15, 2010, e-mail
13 from you to Al Paonessa and Patrick Cochrane.
14 Attached to it is a Detroit News article entitled
15 "Feds suspend license of Harvard Drug Group over
16 painkiller sales." Together, the documents are Anda
17 MDL 281678 through 281680.

18 Now, in the June 15th correspondence from you
19 to Al Paonessa and Patrick Cochrane, you state: I
20 think we need to cut off all the pain management
21 clinic and docs that purchase controls, the same way
22 we did Internet pharmacies in the past. Even right
23 after we cut all the Internet pharmacies off, the
24 dispensing docs and pain management clinics were next

1 at the top. Did they have more than us?

2 Is that what you wrote to Al Paonessa and
3 Pat Cochrane on June 15 of 2010?

4 A. Yes.

5 Q. And this article from The Detroit News about
6 Harvard Drug Group being suspended by the DEA, was
7 that a factor in your decision to submit that article
8 to Al Paonessa and Patrick Cochrane and recommend
9 that Anda cut off all the pain management clinics and
10 docs that purchase controls?

11 MR. MATTHEWS: Objection.

12 THE WITNESS: I don't remember, but the
13 article was forwarded to me by some -- by Dennis
14 Poirier, who is part of our purchasing group, and
15 it appears it was in 2010. I thought it was
16 prior to that.

17 BY MR. NOVAK:

18 Q. Now, you had identified -- or we had reviewed
19 Harvard Drug Group. That was a customer of Anda's,
20 correct?

21 A. Yes, I believe they were.

22 Q. And, in fact, you had proposed back in 2007 a
23 3,900 percent increase beyond the 5,000 unit per
24 controlled substance limit for all of the drugs that

1 you sold to Harvard Drug, correct?

2 A. Yes.

3 Q. And Mr. Paonessa approved that?

4 A. Yes.

5 Q. When you say "Did they have more than us,"
6 what do you mean?

7 A. I'm not sure.

8 Q. Is it a reference to whether Harvard Drug
9 Group had more dispensing doctors and pain management
10 clinics than Anda did?

11 A. Possibly.

12 (Anda - Cochrane Exhibit 51 was marked for
13 identification.)

14 BY MR. NOVAK:

15 Q. We've had next marked Anda - Cochrane
16 Exhibit 51, a one-page document that are an exchange
17 of e-mail related to a mass update customer master
18 number. And the document is dated June 17th of 2010
19 and bears the Anda Bates Number 281703.

20 This document makes reference to a mass
21 update. Do you have an understanding as to what that
22 means?

23 A. Yes. There was a functionality in our system
24 where you didn't have to physically and manually go

1 into each account to make a change to it. You could
2 do it through uploading a file and having the changes
3 done so that you weren't tied to going into each and
4 every individual specific account to make the change.

5 Q. And the specific change that was made through
6 this mass update was the discontinuation of control
7 sales to physicians and pain management clinics?

8 A. And I believe distributors as well.

9 Q. And distributors.

10 Was there discussion in the meetings that
11 Anda held with the DEA in or about this June of 2010
12 time frame regarding the discontinuation of those
13 sales?

14 A. Yes. We made DEA aware of what we were doing
15 before we did it.

16 Q. When you say you made DEA aware of it, had
17 DEA representatives expressed their concern about the
18 volume of Anda sales to pain management clinics,
19 physicians, and distributors?

20 A. At that point in time, I do not believe they
21 did.

22 Q. Okay. But they did just shut off your
23 customer, Harvard Drug Group?

24 MR. MATTHEWS: Objection.

1 THE WITNESS: Yes.

2 BY MR. NOVAK:

3 Q. Two days before?

4 MR. MATTHEWS: Objection.

5 THE WITNESS: Yes.

6 BY MR. NOVAK:

7 Q. In your discussions with Al Paonessa and
8 Patrick Cochrane, is one of the factors that was
9 discussed -- was one of factors that was discussed
10 that motivated your suggestion that all of these
11 different customers be terminated that you didn't
12 want the DEA to present a similar enforcement action
13 against Anda to the one that they had just brought
14 against Harvard Drug Group?

15 MR. MATTHEWS: Objection.

16 THE WITNESS: More than likely, yes.

17 BY MR. NOVAK:

18 Q. And so you quickly moved, within two days, to
19 cut off all of those customers?

20 MR. MATTHEWS: Objection.

21 THE WITNESS: Correct.

22 MR. NOVAK: I'm going to take a quick break.

23 THE VIDEOGRAPHER: Off the record at

24 6:00 p.m.

1 (Recess from 6:00 until 6:14 p.m.)

2 (Anda - Cochrane Exhibit 52 was marked for
3 identification.)

4 THE VIDEOGRAPHER: The time is 6:14. We're
5 now back on the record.

6 BY MR. NOVAK:

7 Q. We have had marked as Anda - Cochrane Exhibit
8 Number 52 an e-mail thread between Tracey Hernandez,
9 Michael Cochrane, and others dated on or around
10 July 17th of 2007 bearing the Anda Bates
11 Number 275725 through 729.

12 Mr. Cochrane, back in July of 2007, when the
13 decision was made to impose the 5,000 pill per month
14 controlled substance threshold on Anda's customers,
15 did you participate in drafting the communication
16 that would go to customers?

17 A. I believe I did, I along with our sales and
18 marketing group, along with Al, potentially. I'm not
19 sure who all was involved.

20 Q. Okay. And if you look at the second to last
21 page ending in 28, you drafted an e-mail on July 17th
22 to Tracey Hernandez that includes the following as
23 part of the internal script for that process. You
24 wrote: Overselling of controlled substances to our

1 customer base must immediately cease.

2 Do you see that?

3 A. Yes.

4 Q. Those were your words?

5 A. Those were our words collectively.

6 Q. Okay. And it was your intent to include that
7 as part of the script that would be communicated to
8 customers?

9 A. No. To the sales reps.

10 Q. Okay. To the sales representatives at Anda?

11 A. Yes. Internal would be sales reps at Anda;
12 external would be customers.

13 Q. Okay.

14 (Anda - Cochrane Exhibit 53 was marked for
15 identification.)

16 BY MR. NOVAK:

17 Q. We've next had marked Anda - Cochrane
18 Exhibit 53.

19 A. Just one second.

20 Q. Uh-huh.

21 A. Back to the -- the previous exhibit.

22 I think I misspoke earlier on orders coming
23 in through all of the different mechanisms as far as
24 order entry is concerned, whether they be electronic

1 or sales reps phoning, you know, taking phone orders.
2 There was a hard stop where the system wouldn't allow
3 you to key something that was going to go over the
4 5,000, and it wouldn't allow you to key the order.

5 Q. Okay.

6 A. And just another point of clarity is CII
7 orders were never keyed by sales reps. Those were
8 either done through CSOS or through a triplicate 222
9 form that the customer would mail in that would then
10 be processed by distribution personnel that had
11 access to the CIIs that were in the vault. And those
12 orders were specifically keyed by administrative
13 assistants that had access to enter a CII order. The
14 sales reps don't and never had access to that.

15 Q. Okay. What you are providing clarification
16 on is some of your earlier testimony --

17 A. Yes.

18 Q. -- as it relates to the submission of orders
19 and the manner in which those orders are placed into
20 TPS?

21 A. Yes.

22 Q. Okay.

23 A. There would be a hard stop on -- before an
24 order could get into the system if it exceeded the

1 number of dosage units that were allowed for that
2 customer.

3 Q. Okay. So in those instances where there is a
4 hard stop --

5 A. Yes.

6 Q. -- is the order allowed to be placed into the
7 TPS system?

8 A. No, I don't believe it was.

9 Q. Okay. And if it is not placed into the TPS
10 system, would it be flagged as a -- under the
11 company's operation of its suspicious order
12 monitoring system?

13 A. No.

14 Q. Okay. So to the extent an Anda customer
15 submitted an order that was stopped by virtue of the
16 hard stop --

17 A. Yes.

18 Q. -- that you have identified, it would never
19 be flagged for reporting as a suspicious order to the
20 DEA?

21 MR. MATTHEWS: Objection.

22 THE WITNESS: I don't think so, no.

23 Sorry.

24 ///

1 BY MR. NOVAK:

2 Q. Now, we -- before that clarification, we were
3 looking at Anda Exhibit 53, which is a series of
4 e-mail exchanges that occurred between various DEA
5 officials and the company in 2012. It bears the
6 Bates Number Anda 78355 through 78363.

7 Do you recognize this exchange of e-mails,
8 Mr. Cochrane?

9 A. I do not.

10 Q. Okay. It starts with an inquiry that Valerie
11 Mitchell submits to the company on a number of
12 issues, if you look at the last two pages of the
13 document. And specifically, Ms. Mitchell writes to
14 Alberto Esteves and requests a variety of information
15 all related to controlled substance sales by the
16 company.

17 If you look at the last page, Ms. Mitchell,
18 who is a diversion investigator at the Columbus
19 District office of the U.S. Department of Justice's
20 Drug Enforcement Administration, asks: Has Anda
21 reported any suspicious orders to the DEA Columbus DO
22 this year?

23 You see that reference?

24 A. Yes.

1 Q. And your understanding is that they had not
2 reported any suspicious orders to the Columbus
3 office -- district office, correct?

4 If it helps, I can direct you to the top
5 page.

6 A. Okay.

7 Q. Specifically Ms. Chaney at the Drug
8 Enforcement Administration writes to you and state:
9 Can you clarify what you mean by "no individual
10 suspicious orders"? Do you mean that Anda has had no
11 suspicious orders since 2007? If, in fact, Anda
12 identified suspicious orders after 2007, were those
13 reported to DEA other than the customer cutoff list?
14 And if so, when and where?

15 Do you see that question posed to you?

16 A. Yes.

17 Q. Okay. And in response, you write to
18 Ms. Chaney on July 24th of 2012 and state: For
19 clarification purposes, there have not been any
20 instances where we have reported a specific order as
21 being suspicious.

22 Do you see that reference?

23 A. Yes.

24 Q. So from the period of 2007 after the Jay

1 Spellman suspicious order reports to the DEA were
2 continued -- were discontinued, from that period
3 forward to July 24th of 2012, there were no
4 suspicious order reports submitted by Anda to the
5 DEA?

6 MR. MATTHEWS: Objection.

7 THE WITNESS: Not for a specific order, yes.

8 BY MR. NOVAK:

9 Q. Is it your position that there was not a
10 single suspicious order submitted to Anda by one of
11 its customers during that time period that Anda
12 detected?

13 MR. MATTHEWS: Objection.

14 THE WITNESS: Yes.

15 BY MR. NOVAK:

16 Q. Now, you had been working on some alternative
17 methods of identifying suspicious orders still into
18 2012, correct?

19 MR. MATTHEWS: Objection.

20 THE WITNESS: We had a system in place prior
21 to 2012 as far as customer due diligence and
22 order monitoring was concerned that was in place.

23 I can't remember the date. We talked about the
24 testing of a system in 2011, I believe, where

1 orders were flagged; they would go on hold. We
2 talked about our bucket. That was prior to 2012.

3 BY MR. NOVAK:

4 Q. During the time that Anda was owned by Watson
5 or Actavis, was it involved in the launch of branded
6 products by those companies?

7 MR. MATTHEWS: Objection.

8 THE WITNESS: I can't remember the specific
9 branded product launches that we did for Watson
10 or Actavis.

11 (Anda - Cochrane Exhibit 54 was marked for
12 identification.)

13 BY MR. NOVAK:

14 Q. We've had marked as Anda - Cochrane
15 Exhibit 54 a two-page e-mail related to the branded
16 CII launch of Moxduo. It is dated June 14th of 2012
17 and bears the Bates Number Anda 86469 to 70.

18 What is Moxduo?

19 A. I honestly don't remember this product.

20 Q. Okay.

21 A. It looks like it's a morphine/oxycodone
22 combination product.

23 Q. And is there a -- when you say a combination
24 product, you mean that it includes both morphine and

1 oxycodone together?

2 A. That's what it appears to look like, yes.

3 Q. Okay. And when you are applying a product
4 like that for purposes of control families, morphine
5 has one set of limits and oxycodone has another set
6 of limits, correct?

7 MR. MATTHEWS: Objection.

8 THE WITNESS: Yes. I -- I don't remember any
9 other specific products that would even fall into
10 this category, nor do I remember this specific
11 product, but yes.

12 BY MR. NOVAK:

13 Q. Okay. Now, when Anda was preparing to sell
14 the Actavis product, do they take a different role in
15 its distribution than they would for the sale of some
16 opioid product that is by a company that doesn't own
17 them?

18 MR. MATTHEWS: Objection.

19 THE WITNESS: No.

20 BY MR. NOVAK:

21 Q. Okay. Are there any particular pricing
22 advantages that you are aware of that Anda would be
23 able to extend for products by the company that owns
24 Anda that it wouldn't be able to extend for other

1 companies' opioid products?

2 MR. MATTHEWS: Objection. Foundation.

3 THE WITNESS: I was never involved in the
4 pricing of products or anything of that nature.
5 I have no idea.

6 BY MR. NOVAK:

7 Q. Okay. How about the rebates? Are they any
8 different from a branded product that is marketed by
9 Actavis as opposed to some other manufacturer that
10 doesn't own Anda?

11 MR. MATTHEWS: Objection; foundation.

12 THE WITNESS: I have no idea.

13 MR. NOVAK: Okay. Bear with me for a second.

14 MR. MATTHEWS: Take your time.

15 BY MR. NOVAK:

16 Q. Mr. Cochrane, when you perform a review of
17 particular retailers and their orders of controlled
18 substances, does the size of the retailer ever factor
19 into your analysis as to whether the order should be
20 filled?

21 MR. MATTHEWS: Objection.

22 THE WITNESS: No, not that I can remember.

23 (Anda - Cochrane Exhibit 55 was marked for
24 identification.)

1 BY MR. NOVAK:

2 Q. We've had marked as Anda - Cochrane Exhibit
3 Number 55 an e-mail exchange between yourself, Jay
4 Spellman, and Patrick Cochrane. It's dated
5 October 4th of 2010 and it bears the Anda Bates
6 Number 109243 through 245.

7 Now, this relates to Neighborcare customer
8 who to send in an order for Control II substances; is
9 that correct?

10 A. Yes.

11 Q. And in your e-mail to Patrick Cochrane and
12 Jay Spellman, you stated at the top of the page: I
13 rejected this last week. It looks like they
14 purchased 600 Oxy in 08/10. They are still a small
15 customer. I figured it wasn't worth it. Would
16 either of you given them Oxy?

17 Do you see that reference?

18 A. Yes.

19 Q. Was the fact that they were "a small
20 customer" and not "worth it" a factor in your
21 decision to deny OxyContin to that retailer?

22 MR. MATTHEWS: Objection.

23 THE WITNESS: The fact that we had just been
24 through a DEA audit where oxycodone was a topic

1 and a concern of theirs warranted it not being
2 worth it given the nature of what had just
3 happened as far as the DEA inspection was
4 concerned prior to this.

5 So I think initially, after that inspection,
6 one of the things that was instituted from a
7 policy perspective was not only the 1,000 dosage
8 units for new customers, but no oxycodone, and
9 there may have been another product as well that
10 we weren't going to offer to any new customers
11 from a controlled substance perspective until
12 they had an ongoing relationship with us and data
13 that we could review.

14 I can't -- it was either -- I know for sure
15 it was oxycodone, and it might have been -- it
16 may have been hydromorphone. Those two specific
17 products at some point in 2010, when we reduced
18 the limits to 1,000 dosage units, oxycodone and
19 hydromorphone were automatically zeros. I don't
20 remember exactly the dates of that, but I think
21 that was part of the outcome from the DEA
22 inspection that took place in 2010.

23 Remember, we didn't get the letter of
24 violation for that inspection until late 2011,

1 so -- but the inspection was prior to this
2 e-mail.

3 Q. Okay.

4 (Anda - Cochrane Exhibit 56 was marked for
5 identification.)

6 BY MR. NOVAK:

7 Q. We've had marked as Anda - Cochrane
8 Exhibit 56 an exchange of e-mail between yourself and
9 Sabrina Solis as it relates to a request for a
10 customer to receive controlled substances. It is
11 dated June 14th of 2012 and has the Bates
12 Number 86482 through 86487.

13 Now, for this particular customer, there is a
14 request that requires the compliance department's
15 feedback as to whether they would be able to obtain
16 controlled substances through Anda.

17 Is that accurate?

18 A. Yes.

19 Q. Okay. And on the front page of the document,
20 Sabrina Solis writes to you. She is reporting to you
21 at this time in 2012, correct?

22 A. Yes.

23 Q. And she states: Big customer, so it's a
24 judgment call.

1 Do you see that?

2 A. Yes.

3 Q. Is Ms. Solis suggesting that since this
4 particular customer is a larger customer that that
5 should be a factor in whether the company authorizes
6 controlled substance sales to them?

7 MR. MATTHEWS: Objection.

8 THE WITNESS: I'm not sure exactly what she
9 means, but potentially, yes.

10 BY MR. NOVAK:

11 Q. Now, looking at the dispensing information
12 for this particular company, it references the top
13 dispensed item as OxyContin 30 milligrams?

14 A. Yes.

■ ■ [REDACTED]

■ [REDACTED]

17 A. More than likely, yes, if it's a month's
18 worth of data.

■ ■ [REDACTED]

■ [REDACTED]

21 A. Dosage units per month.

22 Q. Dosage units per month.

■ [REDACTED]

■ [REDACTED]

■

■

████████████████████

■

■

██

■

██

4

A. Yes.

5

Q. Okay. So all told, they're well in excess,

6

just in the OxyContin, of units per month. They're

7

in excess not only of the 1,000 unit threshold that

8

you made reference to in your last answer but also

9

the older 5,000 unit threshold, correct?

10

MR. MATTHEWS: Objection.

11

THE WITNESS: Yes.

12

BY MR. NOVAK:

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■ [REDACTED]

■ [REDACTED]

■ [REDACTED]

■ [REDACTED]

■ [REDACTED]

6 at that point in time, I would have to say no.

7 Q. Okay. And so you wrote to Sabrina Solis and
8 said: I think we should turn them back on since we
9 received the data and it is not too extreme.

10 What do you mean by "not too extreme"?

11 A. Again, in comparison to things that we have
12 seen based on other pharmacies, the numbers weren't
13 astronomical or outrageous in our opinion.

14 Q. Okay. They were over your threshold limits?

15 MR. MATTHEWS: Objection.

16 THE WITNESS: The threshold limits were --
17 that I referenced as far as 1,000 dosage units
18 was concerned --

19 MR. NOVAK: Yes.

20 THE WITNESS: -- was for new customers moving
21 forward.

22 BY MR. NOVAK:

23 Q. Okay. And at this time in 2012, you could
24 authorize a multiple of that initial 1,000 unit

1 dosage after they had an established track record?

2 A. We could, yeah, after we had done a review of
3 them and received dispense data on them on an ongoing
4 basis, yeah.

5 Q. Okay. Was there any multiple that the
6 company used of the average monthly purchases by a
7 company in 2012 before it would trigger a hold on the
8 order as a suspicious order?

9 MR. MATTHEWS: Objection.

10 BY MR. NOVAK:

11 Q. Or a potentially suspicious order?

12 MR. MATTHEWS: Objection.

13 THE WITNESS: I believe there was, yeah. I
14 don't remember off the top of my head what it
15 was, though.

16 BY MR. NOVAK:

17 Q. You don't know what the multiple number was?

18 A. Correct.

19 Q. Was it a fixed number?

20 A. Yes.

21 Q. Okay. Do you know if it was a multiple of
22 eight?

23 A. Not sure.

24 Q. Okay. Was there a point in time when Anda

1 applied a multiple of eight to the average monthly
2 order before it would hold an order for a customer?

3 MR. MATTHEWS: Objection.

4 THE WITNESS: Possibly.

5 BY MR. NOVAK:

6 Q. Okay. Do you know how the eight times
7 multiplier was selected by Anda?


8 A. No.

9 MR. MATTHEWS: Objection.

10 THE WITNESS: Don't remember.

11 BY MR. NOVAK:

12 Q. Now, we had looked at drafts of Standard
13 Operating Procedure 40 today, and you recall there

14 
15 contained in it; is that correct?

16 A. Yes.

17 Q. Was there ever a document or a standard
18 operating procedure that actually disclosed to
19 whomever was reviewing the standard operating
20 procedure that the company used an eight times
21 multiplier?

22 A. I'm not sure.

23 Q. You've not aware of one where an eight times
24 multiplier was contained in the standard operating

1 procedure document itself, are you?

2 A. Correct. Correct.

3 Q. Has Anda ever communicated to the DEA that it
4 used an eight times multiplier in its Standard
5 Operating Procedure 40 for purposes of implementing a
6 suspicious order monitoring system?

7 MR. MATTHEWS: Objection.

8 THE WITNESS: I'm not sure, but I would
9 assume that it was communicated.

10 BY MR. NOVAK:

11 Q. Who typically would have communicated those
12 items to the company?

13 A. Oh, it could have been a number of people.
14 It could have been me; it could have been Robert
15 Brown; it could have been -- depending on when it
16 was, it could have been Howard Davis; Emily Schultz.

17 (Anda - Cochrane Exhibit 57 was marked for
18 identification.)

19 BY MR. NOVAK:

20 Q. We have had marked as Anda - Cochrane 57 a
21 document that was previously marked as Anda - Brown
22 Exhibit 10 during the deposition of Robert Brown.

23 First let me ask: Was there a point in time
24 of which you are aware where Anda contracted with

1 Buzzeo to perform a suspicious order monitoring
2 system assessment on behalf of the company?

3 A. Yes.

4 MR. MATTHEWS: Objection.

5 BY MR. NOVAK:

6 Q. And were you one of the individuals at Anda
7 who was interviewed by Buzzeo for purposes of their
8 performance of that suspicious order monitoring
9 assessment?

10 A. Yeah, but I don't know if I was present for
11 the whole -- the whole meeting when they were here.

12 Q. Okay. I'd like to direct your attention to
13 Anda - Cochrane 57, the page ending in Bates
14 Number 539142.

15 MR. NOVAK: And I don't recall if I
16 identified it for the record, but the Bates
17 numbers for the document as a whole is Anda
18 539140 through 150.

19 BY MR. NOVAK:

20 Q. But looking at the page ending in 142, there
21 is reference, down at the second paragraph, to a
22 statement: Michael Cochrane, Executive Director,
23 Regulatory Compliance, Anda, provided consultants
24 with corporate SOM background information and was

1 involved with portions of the review.

2 Do you see that reference?

3 A. Yes.

4 Q. At Page 5 of the document, if you can turn to
5 that portion of it, the middle paragraph states:

■ [REDACTED]

■ [REDACTED]

■ [REDACTED]

■ [REDACTED]

■ [REDACTED]

■ [REDACTED]

■ [REDACTED] [REDACTED]

■ [REDACTED] [REDACTED]

14 SOM attributes is contained in the SOP.

15 Do you see that reference?

16 A. Yes.

17 Q. Okay. And then it continues to state:

18 However, during interviews with staff, consultants
19 learned that eight is the multiplier used to "pend"
20 orders for additional investigation. Anda could not
21 provide information of how the multiplier of eight
22 was established.

23 Do you see that reference?

24 A. Yes.

1 Q. Is there anyone in Anda who can tell us where
2 this multiple of eight came from?

3 A. I'm not sure.

4 Q. You were involved in the creation of the
5 standard operating procedure that's being discussed
6 here, correct?

7 A. Yes.

8 Q. And you don't know where the eight multiple
9 came from?

10 MR. MATTHEWS: Objection.

11 THE WITNESS: No, I don't remember where it
12 came from.

13 BY MR. NOVAK:

14 Q. Do you know who within Anda, if it's not you
15 as the author of the standard operating procedure,
16 would be the appropriate person to obtain that
17 information from?

18 A. No.

19 Q. And to your knowledge, the multiple of eight
20 continued to be used -- well, let me ask a different
21 question because I want to get an understanding of
22 how this multiple is used in practice.

23 (Anda - Cochrane Exhibit 58 was marked for
24 identification.)

1 BY MR. NOVAK:

2 Q. We've had marked as Anda - Cochrane
3 Exhibit 58 a document which is a series of e-mail
4 dated approximately December 5th of 2014 between
5 various individuals in the compliance program within
6 Anda, and it bears the Bates Number Anda 84233
7 through 84237.

8 And although the controlled substance at
9 issue in the discussion at Page 2 is coding, I want
10 to ask you some questions as to how this eight
11 multiplier works.

12 First of all, this particular e-mail
13 contained within Anda Exhibit 58 is from Debra Abelow
14 and addressed to you and Sabrina Solis.

15 Who is Ms. Abelow?

16 A. One of the ES400 programmers who works on the
17 Turning Points -- the TPS system.

18 Q. Okay. So it states in Ms. Abelow's e-mail to
19 you that the pill count for 201887 and 201889 is 100.
20 These two items are on order 28 -- 25961833. And
21 then the pill count for 20188 --

22 A. What page are you on?

23 Q. I'm sorry, Page 2. The second page of the
24 document.

1 A. Okay.

2 Q. You see the e-mail from Debra Abelow to you
3 and Sabrina Solis?

4 A. Yeah.

5 Q. Okay. Now, looking down at the different
6 products that are referenced, there are -- is that
7 five different types of coding?

8 A. No. That's -- appears to be five different
9 months.

10 Q. Oh, okay.

11 So the person who would be performing an
12 evaluation of how Anda's suspicious order monitoring
13 system worked in December of 2014, one of the factors
14 they would look at is the average quantity of
15 purchase based upon the last six months of sales
16 data, correct?

17 MR. MATTHEWS: Objection.

18 THE WITNESS: I believe so, but I'm not sure.

19 BY MR. NOVAK:

20 Q. Okay. And they would basically take the
21 particular pill counts that are within the same
22 control family and calculate what the average
23 quantity purchased is based on six months of data?

24 MR. MATTHEWS: Objection.

1 THE WITNESS: I'm not sure. The person
2 wouldn't do that. The system would do that.

3 BY MR. NOVAK:

4 Q. Okay. The -- when you say the system, you're
5 talking about the features of the suspicious order
6 monitoring system that are built to flag orders that
7 are potentially suspicious?

8 A. Yes.

9 Q. Okay. And the e-mail -- in the e-mail, Debra

Row	Bar 1 (Start)	Bar 1 (End)	Bar 2 (Start)	Bar 2 (End)
1	0	33	37	100
2	0	96		
3	0	100		
4	0	98		
5	0	30		
6			25	52
7			17	32
8			17	32
9			17	32
10			37	94
11	0	94		
12	0	94		
13	0	89		
14	0	40		

22 MR. MATTHEWS: Objection.

23 THE WITNESS: I believe so.

24 ///

1 BY MR. NOVAK:

2 Q. And that's your understanding as to how the
3 system was designed to work for purposes of
4 identifying suspicious orders in 2014?

5 MR. MATTHEWS: Objection.

6 THE WITNESS: I believe so.

7 BY MR. NOVAK:

8 Q. Now, looking at these particular dates for
9 the period -- well, let me ask first: That first
10 column that says "period" and then says 11407 through
11 11411, what does that mean?

12 A. I believe that's a reference to the month and
13 the year. So drop the 1. The '14 is the year, and
14 then the 07 is the month.

15 Q. Okay. So this particular customer would have
16 purchased 1,800 units of codeine in July of '14?

17 A. I'm not sure. I see a ship number and a
18 purchase number. Those might be dosage units. I'm
19 not sure. I haven't seen anything like this for
20 years.

21 Q. So it's a dosage unit, then, of 1,800 units
22 that are purchased in July of '14?

23 MR. MATTHEWS: Objection.

24 THE WITNESS: I'm really not sure.

1 BY MR. NOVAK:

2 Q. Okay. In -- irrespective of what type of
3 unit it is, there is a reference to the amount
4 purchased for July of '14, then August of '14, then
5 September of '14, October of '14, and November of
6 '14, correct?

7 A. Yes. This isn't for a specific customer,
8 though. This is for a trade class, I believe, in its
9 entirety.

10 Q. Okay. So it's the trade class that is in its
11 entirety increasing the average purchase amounts in
12 the numbers that are reflected in that -- in the
13 "Purchased" column as it's contained in this page of
14 the deposition exhibit; is that correct?

15 MR. MATTHEWS: Objection.

16 THE WITNESS: I believe so.

17 MR. NOVAK: Okay.

18 THE WITNESS: It's not one specific customer.
19 It's a trade class in its entirety, if I'm not
20 mistaken.

21 BY MR. NOVAK:

■ [REDACTED]

■ [REDACTED]

■ [REDACTED] ■

■ [REDACTED]

■ [REDACTED]

■ [REDACTED]

7 MR. MATTHEWS: Objection.

8 THE WITNESS: I believe so.

9 BY MR. NOVAK:

10 Q. Those are pretty significant increases on a
11 month-to-month basis. Would a suspicious order
12 monitoring system, in your view, appropriately flag
13 increases that are -- are less significant than the
14 ones presented here?

15 MR. MATTHEWS: Objection.

16 THE WITNESS: Again, I'm not sure. But like
17 I said, this is for a trade class. And I see
18 Walgreens referenced here. Walgreens would be in
19 the same trade class as Rite Aid and any of our
20 other national chains. The numbers could be
21 smaller up top because of product availability,
22 for all I know, at that specific given point in
23 time. And as product became available, customers
24 were ordering it from us, hence the fact the

1 number goes up.

2 I don't know if there was a manufacturing
3 issue back then. There's lots of determining
4 factors. In looking at these numbers that are
5 copied and pasted from -- from TPS, I don't know
6 how many customers are specifically in that
7 specific trade class. I know Walgreens has
8 thousands of stores. Other national account or
9 retail chains throughout the country have
10 thousands of stores. They could potentially be
11 in that same specific class.

12 BY MR. NOVAK:

13 Q. I think my question has a little different
14 focus.

15 You would agree there is a pretty significant
16 difference between purchases in July of '14 of only

■ [REDACTED]

■ [REDACTED]

19 MR. MATTHEWS: Objection. Argumentative.

20 THE WITNESS: Yes.

21 BY MR. NOVAK:

22 Q. Okay. And a system that uses six months of
23 dispensed data would average out those six months
24 worth of data to create the flag that's going to be

1 used to determine whether an order is suspicious or
2 not, correct?

3 MR. MATTHEWS: Objection.

4 THE WITNESS: I believe so.

5 BY MR. NOVAK:

6 Q. Does using six months or a year of data have
7 the effect of potentially masking increases in the
8 amount of dosage units that a company would -- would
9 potentially buy from Anda -- or, for that matter,
10 from any distributor -- as a result of averaging the
11 data?

12 MR. MATTHEWS: Objection.

13 THE WITNESS: I don't believe there's any
14 masking going on.

15 BY MR. NOVAK:

16 Q. Let me have you look for a moment at a
17 different example.

18 (Anda - Cochrane Exhibit 59 was marked for
19 identification.)

20 MR. MATTHEWS: This is two pages, but it's
21 one exhibit?

22 MR. NOVAK: Yes.

23 BY MR. NOVAK:

24 Q. We have had marked Anda Cochrane 59 a

1 two-page document from you to Al Paonessa. The first
2 page is simply an e-mail dated September 11th of
3 2012, and it's characterized as an example, and then
4 attached to it is a page showing increases in
5 potential units of a product that is ordered. It
6 bears the Bates Number Anda 85935.

7 Now, in the first e-mail, you write to
8 Al Paonessa: This is the description of McKesson's
9 controlled substance monitoring program from Rite Aid
10 as well as a spreadsheet calculating what a store
11 could increase to in one calendar year if they
12 started with 1,000 dosage units of a specific
13 controlled substance chemical.

14 You see that reference?

15 A. Yes.

16 Q. So this was information you were conveying to
17 Al Paonessa based upon what Rite Aid had communicated
18 to you about McKesson's controlled substance
19 monitoring program; is that correct?

20 A. It would appear so.

21 Q. Okay. And in this example, if we look at the
22 second page of the exhibit, McKesson's controlled
23 monitoring program could allow a customer such as
24 Rite Aid, who started the year in January with 1,000

1 control units, to increase by December to 86,498
2 units.

3 Is that accurate?

4 A. To -- what was the last number?

5 Q. 86,498 units.

6 A. Yeah, it would appear so.

7 Q. So if the controlled substance monitoring
8 program is constructed with the right variables, you
9 could have a massive increase in the amount of
10 product that a customer could order simply based on
11 stretching out the averages over the year's time.

12 MR. MATTHEWS: Objection.

13 THE WITNESS: Yeah. I was just --

14 MS. URQUHART: Objection.

15 THE WITNESS: -- I was just conveying
16 knowledge of what Rite Aid sent me to Al, just to
17 give him an example.

18 MR. NOVAK: Okay.

19 THE WITNESS: But based on -- based on Rite
20 Aid's description, yeah, that's what it looks
21 like.

22 MR. NOVAK: Okay. Let me take a quick break.

23 THE VIDEOGRAPHER: Off the record at 7:09.

24 (Recess from 7:09 until 7:16 p.m.)

1 (Anda - Cochrane Exhibit 60 was marked for
2 identification.)

3 (Anda - Cochrane Exhibit 61 was marked for
4 identification.)

5 THE VIDEOGRAPHER: The time is 7:16. We're
6 now back on the record.

7 BY MR. NOVAK:

8 Q. We've had marked two exhibits, Anda -
9 Cochrane Exhibit 60 -- Anda - Cochrane 60, which is
10 an e-mail exchange that includes Michael Cochrane
11 related to Rite Aid and the MoxDuo release. It bears
12 the Bates Number Anda Opioids 90905.

13 Mr. Cochrane, we had reviewed earlier a
14 product that Actavis was releasing that combined both
15 morphine and OxyContin.

16 Do you remember that discussion?

17 A. Yes.

18 Q. And in reviewing the launch of that product,
19 you were specifically asked by Mr. Falkin on the
20 first page of Anda - Cochrane Exhibit 60 as
21 Mr. Falkin wrote to you saying: Mike, after we spoke
22 today, Actavis confirmed to me that they did speak
23 with Rite Aid who is suggesting about 1,200 Rite Aid
24 locations. You'll confirm with us this is

1 acceptable.

2 Do you see that reference?

3 A. Yes.

4 Q. And you replied and said: That is fine. I
5 don't see the need to exclude any chains.

6 Is that correct?

7 A. Yes.

8 Q. Were you making that determination based upon
9 the representation that Actavis had confirmed that
10 they spoke with Rite Aid and was suggesting 1,200
11 Rite Aid locations?

12 A. Yes.

13 Q. Okay. Now, Exhibit Anda - Cochrane 61 is a
14 document or a series of e-mail that were exchanged
15 between you and other individuals at Anda, and the
16 last is -- well, they're dated July 19 of 2012,
17 beginning with the Bates Number 86177 and running
18 through 81571.

19 Hold on.

20 I'm concerned that these documents are not
21 appropriately combined, because looking at the top of
22 it, they appear to be involving different subject
23 matters.

24 Okay. I apologize. There's a different

1 cover page for the last part of Anda Exhibit 61.

2 MR. MATTHEWS: What are we doing here?

3 MR. NOVAK: Could we correct the marking of
4 Anda Exhibit 61?

5 MR. MATTHEWS: How are you trying to correct
6 it?

7 MR. NOVAK: The -- and I'll reduce it. There
8 is an e-mail from Sabrina Solis to Michael
9 Cochrane referencing Rite Aid top 100 products
10 for top 100 stores review, and then attached to
11 that is what I believe to be the appropriate
12 attachment. I think somehow a different e-mail
13 was attached to that material which should not
14 have been.

15 And as you will note --

16 Could you have that page marked as Anda
17 Exhibit 61.

18 MR. MATTHEWS: So that the record is
19 complete, the document bearing Bates Numbers Anda
20 Opioids MDL 86177 and 86178 originally marked as
21 the first two pages of Exhibit 61 is being
22 removed from the record and is no longer part of
23 that exhibit.

24 Is that correct?

1 MR. NOVAK: That is correct.

2 And in addition to that, the additional pages
3 up through and including Bates Number 86180 are
4 being removed.

5 So the document is now -- that is now Anda
6 Exhibit 61 bears the Bates page references 81549
7 and then runs from there through 81571. There is
8 an additional page after that that for some
9 reason does not include a Bates page, and I have
10 no idea why.

11 MR. MATTHEWS: Okay. For the record, you are
12 now over your time limit. I'll give you one
13 question to the witness on this document, and I'm
14 going to cut off any questions after that.

15 BY MR. NOVAK:

16 Q. Mr. Cochrane, is this an analysis of Rite Aid
17 dispensing data that was provided by Sabrina Solis to
18 you in the March 7, 2012, time frame?

19 A. I don't have the cover page with the exhibit
20 on it.

21 MR. MATTHEWS: Just so the record is clear,
22 by "this," you mean what you have marked as
23 Exhibit 61?

24 MR. NOVAK: Yes.

1 THE WITNESS: There's two that are marked 61,
2 though. I think maybe this one goes with that
3 letter.

4 MR. MATTHEWS: So that the record is clear,
5 Mr. Cochrane is holding what's been marked as
6 Deposition Exhibit 61. It is a document that
7 bears Bate Number Anda Opioids MDL 81549 through
8 81571 with one additional page attached to that
9 that does not bear a Bates Number --

10 MR. NOVAK: Yes.

11 MR. MATTHEWS: -- which says at the top "RA
12 Store #4575."

13 Do you agree that that is the exhibit,
14 Mr. Novak?

15 MR. NOVAK: Yes.

16 MR. MATTHEWS: One question for the witness.

17 MR. NOVAK: And I think I already have one
18 pending.

19 MR. MATTHEWS: Why don't you ask it again.

20 BY MR. NOVAK:

21 Q. Mr. Cochrane, does Anda Exhibit 61 include an
22 analysis of Rite Aid dispensing data that was
23 provided by Sabrina Solis to you in the March 7,
24 2012, time frame?

1 A. Yes.

2 MR. MATTHEWS: Are you finished?

3 MR. NOVAK: I'm out of time.

4 MR. MATTHEWS: So you are passing the
5 witness?

6 MR. NOVAK: Yes.

7 MR. MATTHEWS: Before we continue, I would
8 just like to ask on the record if you can tell me
9 where the last page of Exhibit 61 originated from
10 since it doesn't bear Bates numbers, so I don't
11 know what it is or where it came from.

12 MR. NOVAK: I -- I don't know what explains
13 that. I assume it was produced with the
14 remainder of the document but for some reason
15 does not include a Bates Number.

16 MR. MATTHEWS: Since it doesn't bear any
17 objective indications of its -- where it came
18 from and since the witness didn't identify that
19 page in particular, I object to its use in the
20 deposition because we don't know anything about
21 its authenticity or what it is.

22 MR. NOVAK: I believe we have a substitute
23 page that -- yeah. I understand your objection.
24 I'll have to go back to the production at some

1 point and see if there's a Bates number that can
2 be attached to it. I understand.

3 MR. MATTHEWS: That's always -- it's
4 always -- I'm ready, willing, and able to talk
5 with you about ways we can solve issues that
6 arise during the deposition. So bring it to me
7 and we will consider it.

8 MR. NOVAK: Thanks.

9 MR. MATTHEWS: I'm going to have some
10 questions. I need a few minutes to splash some
11 water on my face and see if the witness is okay,
12 all right? And then we will be right back.

13 MR. NOVAK: Thank you.

14 THE VIDEOGRAPHER: The time is 7:27 p.m. We
15 are going off the record.

16 (Recess from 7:27 until 7:34 p.m.)

17 THE VIDEOGRAPHER: The time is 7:34 p.m. We
18 are now back on the record.

19 CROSS-EXAMINATION

20 BY MR. MATTHEWS:

21 Q. Good evening, Mr. Cochrane. As you know, my
22 name is James Matthews. I represent Anda in this
23 litigation, and today I have been representing you.

24 I have a few questions for you. I know it's

1 late in the day. I appreciate very much the time
2 that you have been willing to testify today.

3 I want to take you way back to the beginning
4 of the day and just make sure some certain things are
5 clear on the record.

6 To begin with, you aren't currently employed
7 by Anda; is that right?

8 A. No, I'm not.

9 Q. And you haven't been employed by Anda since
10 sometime in 2016, correct?

11 A. Correct.

12 Q. And your appearance here today is voluntary;
13 is that correct?

14 A. Yes.

15 Q. I want to focus on a time when you were
16 employed by Anda and responsible for DEA compliance,
17 okay?

18 A. Okay.

19 Q. And just so we're sure between us what I mean
20 by DEA compliance, I mean the process of maintaining
21 and being responsible for the system that Anda
22 devised to detect, identify suspicious orders, all
23 right?

24 A. Okay.

1 Q. But DEA compliance involves a lot more than
2 that, right?

3 A. Correct.

4 Q. But today we are going to be limited to that,
5 all right?

6 A. Okay.

7 Q. Just for some background, Mr. Cochrane, in
8 2010, approximately how many customers did Anda
9 service?

10 A. Entirely?

11 Q. Entirely.

12 A. At least 40- to 50,000.

13 Q. And what kind of products did Anda sell at
14 that time?

15 A. All kinds of products: prescription drugs,
16 controlled substances that were prescription drugs,
17 med surgical supplies, over-the-counter products,
18 vitamins, power bars.

19 Q. And in what areas of the country did Anda
20 distribute products?

21 A. All across the United States.

22 Q. How many of Anda's customers, if you recall,
23 in 2010 were independent retail pharmacies approved
24 for purchasing controlled substances?

1 A. I'm not sure. I would have to say 10,000.

2 Q. Okay. Did that change at some time?

3 A. As to how many customers there were?

4 Q. Independent retail pharmacies approved for
5 purchasing controlled substances. Did that number
6 change at some time?

7 A. Yes.

8 Q. How did it change after 2010?

9 A. Drastically. Fewer customers through our due
10 diligence process and customer review process.

11 Q. When did that customer review and due
12 diligence process occur?

13 A. It started back in 2007.

14 Q. And when did it sort of end, in your view?

15 A. It's ongoing.

16 Q. Okay. About when had the customer
17 independent pharmacy base been reduced from 10,000 to
18 some lower number?

19 A. Throughout -- from 2007 probably through the
20 present, I would assume.

21 Q. Okay. I want to ask you to refer back to --

22 A. Actually, it would go back to 2005.

23 Q. I'd like you to refer back to what's
24 previously been marked as Exhibit 57.

1 Exhibit 57 is a document which is described
2 on its face as a suspicious order monitoring
3 assessment prepared by BuzzeoPDMA, right?

4 A. Yes.

5 Q. And that was -- when was that prepared?

6 A. October of 2015.

7 Q. All right. I would like to focus your
8 attention on the last paragraph of Page 1 of the
9 report, which bears Bates Number Anda Opioids MDL
10 539142.

11 You see where Buzzeo reports in that
12 paragraph that, according to Director Brown, the firm
13 services approximately 20,000 -- and there's -- I
14 believe it's supposed to be customers, but it doesn't
15 say that -- which are roughly divided equally between
16 retail accounts and chain accounts?

17 A. Yes.

18 Q. Is that accurate to the best of your
19 recollection?

20 A. Yeah.

21 Q. And then it goes on to say: Of the retail
22 accounts, only around 1,500 receive controlled
23 substances.

24 Do you see that?

1 A. Yes.

2 Q. Was that accurate as of 2015 to the best of
3 your recollection?

4 A. I believe it was.

5 Q. At the beginning of -- let me ask you another
6 question -- sort of background question: At or
7 around 2010, how many SKUs did Anda distribute?

8 A. More than 10,000, potentially 15,000.

9 Q. Just so the record is clear, what is an SKU?

10 A. It's an individual selling unit of product.

11 Q. Okay. And there was some testimony about
12 controlled substances and SKUs earlier in the day.

13 Do you remember that?

14 A. Yes.

15 Q. Let me ask you this: At or around the period
16 2005 to 2010, about how many individual SKUs for the
17 product oxycodone did Anda distribute?

18 A. Twenty-five to 40, maybe more.

19 Q. Okay. And so it's clear, why would there be
20 that many SKUs that Anda distributed for oxycodone?

21 A. Different bottle counts, different
22 milligrams, different manufacturers,
23 different national drug code numbers. Every national
24 drug code had its own SKU and item number.

1 Q. Let me ask you the same question for
2 hydrocodone: During the period 2005 to 2010, about
3 how many SKUs for hydrocodone did Anda distribute if
4 you have a memory?

5 A. It could have been as many as a hundred.

6 Q. And how about hydromorphone?

7 A. Hydromorphone wasn't as popular. Probably
8 ten, if I had to put a number on it.

9 Q. Mr. Novak asked you some questions about what
10 you did when you first had -- got the position as
11 head of regulatory compliance to familiarize yourself
12 with the company's obligations.

13 I'm going to ask you: What was the -- from
14 your perspective as head of the compliance -- DEA
15 compliance during the time that you had the job, what
16 was the source of the legal obligations that you
17 turned to to understand what those legal obligations
18 were?

19 A. The code of --

20 MR. NOVAK: Objection.

21 BY MR. MATTHEWS:

22 Q. You can answer the question.

23 A. The Code of Federal Regulations, United
24 States Code.

1 Q. Let me show you what's been marked for
2 identification as Exhibit 62.

3 (Anda - Cochrane Exhibit 62 was marked for
4 identification.)

5 BY MR. NOVAK:

6 Q. Can you take a look at Exhibit 62 and tell me
7 if you know what that is?

8 A. Yes.

9 Q. What is it?

10 A. 21 United States Code, the Controlled
11 Substances Act.

12 Q. When you testified that you looked at the
13 United States Code to -- as the source of your legal
14 obligations with respect to DEA compliance, is that
15 the section of code you were referring to?

16 A. Yes.

17 Q. Let me hand you what the court reporter has
18 marked as Exhibit 63.

19 (Anda - Cochrane Exhibit 63 was marked for
20 identification.)

21 BY MR. MATTHEWS:

22 Q. Look at 63 and tell me if you know what that
23 is.

24 A. Yes.

1 Q. What is it?

2 A. Title 21, the Code of Federal Regulations.

3 Q. When you testified earlier that you looked at
4 the regulations as the source of the legal
5 obligations for DEA compliance at Anda, is that what
6 you were referring to?

7 A. Yes.

8 Q. You've had a lot of questions today about a
9 lot of different topics, and I'd like to sort of
10 orient them to the United States Code and the Code of
11 Federal Regulations, if I could.

12 So starting first with the code, which is
13 Exhibit 62, could you take a look at it and tell me
14 what, if anything, it says about knowing your
15 customers?

16 MR. NOVAK: Objection.

17 THE WITNESS: There is nothing.

18 BY MR. MATTHEWS:

19 Q. Could you take a look at Exhibit 62 and tell
20 me, what, if anything, it says about dispensing data?

21 MR. NOVAK: Objection.

22 THE WITNESS: There is nothing.

23 BY MR. MATTHEWS:

24 Q. Could you take a look at Exhibit 62 and tell

1 me what, if anything, it says about Internet
2 pharmacies?

3 MR. NOVAK: Objection.

4 THE WITNESS: There is nothing.

5 BY MR. MATTHEWS:

6 Q. Could you look at Exhibit 62 and tell me
7 what, if anything, it says about physicians?

8 MR. NOVAK: Objection.

9 THE WITNESS: There is nothing.

10 BY MR. MATTHEWS:

11 Q. Could you look at Exhibit 62 and tell me,
12 what, if anything, it says about pain clinics?

13 MR. NOVAK: Objection.

14 THE WITNESS: There is nothing.

15 BY MR. MATTHEWS:

16 Q. Can you look at Exhibit 62 and tell me what,
17 if anything, it says about shipping suspicious
18 orders?

19 MR. NOVAK: Objection.

20 THE WITNESS: There is nothing.

21 BY MR. MATTHEWS:

22 Q. Can you look at Exhibit 62 and tell me what,
23 if anything, it says about cutting off customers?

24 MR. NOVAK: Objection.

1 THE WITNESS: There is nothing.

2 BY MR. MATTHEWS:

3 Q. From your perspective as you read the
4 applicable code -- let me ask you this: Can you look
5 at Exhibit 62 and tell me, what, if anything, it says
6 about site inspections?

7 MR. NOVAK: Objection.

8 THE WITNESS: There is nothing.

9 BY MR. MATTHEWS:

10 Q. And can you look at Exhibit 62 and tell me
11 what, if anything, it says about Google searches?

12 A. There is nothing.

13 MR. NOVAK: Objection.

14 BY MR. MATTHEWS:

15 Q. If you could look at Exhibit 63, please,
16 which is a copy of the Code of Federal Regulations,
17 could you look at Exhibit 63 and tell me what it
18 says, if anything, about knowing your customer?

19 MR. NOVAK: Objection.

20 THE WITNESS: There is nothing.

21 BY MR. MATTHEWS:

22 Q. Looking at Exhibit 63, can you tell me what,
23 if anything, it says about dispensing data?

24 MR. NOVAK: Objection.

1 THE WITNESS: There is nothing.

2 BY MR. MATTHEWS:

3 Q. Can you look at Exhibit 63 and tell me, what,
4 if anything, it says about Internet pharmacies?

5 MR. NOVAK: Objection.

6 THE WITNESS: There is nothing.

7 BY MR. MATTHEWS:

8 Q. Can you look at Exhibit 63 and tell me what,
9 if anything, it says about physicians?

10 MR. NOVAK: Objection.

11 THE WITNESS: There is nothing.

12 BY MR. MATTHEWS:

13 Q. Can you look at Exhibit 63 and tell me what,
14 if anything, it says about pain clinics?

15 MR. NOVAK: Objection.

16 THE WITNESS: There is nothing.

17 BY MR. MATTHEWS:

18 Q. Can you look at Exhibit 63 and tell me what,
19 if anything, it says about not shipping suspicious
20 orders?

21 MR. NOVAK: Objection.

22 THE WITNESS: There is nothing.

23 BY MR. MATTHEWS:

24 Q. Can you look at Exhibit 36 and tell me what,

1 if anything, it says about cutting off customers?

2 MR. NOVAK: Objection.

3 THE WITNESS: There is nothing.

4 BY MR. MATTHEWS:

5 Q. Can you look at Exhibit 63 and tell me what,
6 if anything, it says about site inspections?

7 MR. NOVAK: Objection.

8 THE WITNESS: There is nothing.

9 BY MR. MATTHEWS:

10 Q. Can you look at Exhibit 36 and tell me, what,
11 if anything, it says about Google search?

12 MR. NOVAK: Objection.

13 THE WITNESS: There is nothing.

14 BY MR. MATTHEWS:

15 Q. In fact, would you agree with me that
16 Exhibit 63 doesn't contain any of the words that I
17 just asked you about in any of the previous
18 questions?

19 MR. NOVAK: Objection.

20 THE WITNESS: Yes.

21 BY MR. MATTHEWS:

22 Q. Would you also agree with me that Exhibit 62
23 doesn't contain any of the words that I asked you
24 about in the previous questions about that exhibit?

1 A. Yes.

2 MR. NOVAK: Objection.

3 BY MR. MATTHEWS:

4 Q. Besides the statute and the regulation, were
5 there other sources of information that you relied
6 upon in thinking about how to meet your obligations
7 under the statute?

8 A. Sure.

9 MR. NOVAK: Objection.

10 BY MR. MATTHEWS:

11 Q. And what were those sources?

12 A. Local field investigators, industry groups,
13 Department of Health, DEA, numerous different
14 advisors or regulators.

15 Q. All right. So have you heard the term
16 "guidance" in relation to your DEA compliance duties?

17 A. Yes.

18 Q. How do you understand that term, "guidance,"
19 in that context?

20 A. A lot of the things you described are
21 guidance mechanisms. Not necessarily
22 statute-related, but a lot of the things that you
23 have asked me, we have discussed with our local field
24 offices, DEA in Washington, and things along those

1 lines.

2 Q. All right. When is the first time anyone
3 gave you guidance about Internet pharmacies?

4 MR. NOVAK: Objection.

5 THE WITNESS: 2005.

6 BY MR. MATTHEWS:

7 Q. Can you describe what that guidance was and
8 who you got it from?

9 A. Yes. We were called to Washington D.C. to
10 meet with Michael Mapes. Internet pharmacies were
11 apparently a growing problem that they had seen and
12 were -- were watching. We had some customers that
13 fit that criteria and they wanted to discuss us
14 distributing controlled substances to them.

15 Q. Okay. And what was the guidance you
16 received?

17 MR. NOVAK: Objection.

18 THE WITNESS: Not to do it.

19 BY MR. MATTHEWS:

20 Q. Okay. What did you do after you received
21 that guidance?

22 A. Immediately stopped doing it.

23 Q. And by "stopped doing it," what do you mean?

24 A. We eliminated all of those customers from

1 being able to purchase controlled substances from us.

2 Q. When is the first time that you received
3 guidance from any government agency about
4 distributing opioids to physicians or pain clinic?

5 MR. NOVAK: Objection.

6 THE WITNESS: At some point 2008, maybe,
7 Department of Health.

8 BY MR. MATTHEWS:

9 Q. Okay. What is the Department of Health you
10 are referring to?

11 A. Florida Department of Health.

12 Q. And what were the circumstances under which
13 you received that guidance?

14 MR. NOVAK: Objection.

15 THE WITNESS: We were called to Tallahassee
16 to specifically discuss a number of growing
17 dispensing practitioners and physicians within
18 the state of Florida itself.

19 BY MR. MATTHEWS:

20 Q. Okay. And what did you understand was their
21 view about Internet -- I'm sorry, physicians and pain
22 clinics at that time?

23 MR. NOVAK: Objection.

24 THE WITNESS: That it wasn't something that

1 we wanted to be involved in.

2 BY MR. MATTHEWS:

3 Q. And how did Anda respond to receiving that
4 guidance?

5 A. We discontinued sales to dispensing
6 physicians. It may have been after 2008 that we were
7 called up there. I don't -- I don't remember that
8 specifically but . . .

9 Q. When you say you ceased sales to dispensing
10 physicians, does that category also include pain
11 clinics?

12 A. Yes.

13 Q. I didn't ask you this so I want to go back to
14 it.

15 With respect to 62, the United States Code,
16 is there anything in that document about electronic
17 order monitoring systems?

18 MR. NOVAK: Objection.

19 THE WITNESS: Yes. That you have to develop
20 a system.

21 BY MR. MATTHEWS:

22 Q. Okay. Can you look at 62, Exhibit 62, and
23 find for us where it says that you are required to
24 develop an electronic order monitoring system?

1 MR. NOVAK: Objection.

2 THE WITNESS: Oh, I misunderstood the
3 question. It's not -- it doesn't have to be
4 electronic.

5 BY MR. MATTHEWS:

6 Q. And if you look at Exhibit 63, which is the
7 code of regulations -- let me just draw your
8 attention to -- I have to find it; sorry -- Section
9 1301.74(b).

10 I'll read this to you: The registrant shall
11 design and operate a system to disclose to the
12 registrant suspicious orders of controlled
13 substances.

14 Did I read that correctly?

15 A. Yes.

16 Q. What, if anything, does the regulation say
17 about an electronic order monitoring system?

18 MR. NOVAK: Objection.

19 THE WITNESS: It doesn't.

20 BY MR. MATTHEWS:

21 Q. I want you, if you could, to look back again
22 at Exhibit 57, which was, for shorthand purposes, the
23 Buzzeo report.

24 Do you have that in front of you?

1 A. Yes.

2 Q. Could you turn to Page 1, which is the page
3 bearing Bates Number Anda Opioids MDL 539142.

4 A. Yes.

5 Q. I'd like you to read, if you could, into the
6 record aloud the paragraph that begins "Anda is
7 secondary."

8 A. Anda is a "secondary" drug wholesaler,
9 meaning that most of their customers purchase
10 controlled substances from other suppliers and order
11 from Anda when they cannot purchase from
12 their "primary" suppliers. Secondary suppliers have
13 DEA SOM challenges since they do not have a history
14 of interactions with customers or their interaction
15 is sporadic. The firm is the primary supplier for
16 Publix and the sole secondary supplier for Walgreens.

17 Q. Is that paragraph accurate in your view?

18 A. Yes.

19 Q. Could you explain the peculiar or the
20 particular circumstances that are unique for
21 secondary suppliers in the marketplace?

22 A. It's a niche for out of stock products,
23 products that are in short supply, things along those
24 lines, as a backup.

1 Q. So in terms of ordering patterns from your
2 customers, what does that mean?

3 A. The majority of their orders are sporadic.
4 There's -- there's not the same consistency as there
5 would be with their primary supplier.

6 Q. And when you say sporadic, do you mean that
7 they vary in quantity?

8 A. It could vary in quantity, specific products.
9 It doesn't have to be necessarily controlled,
10 noncontrolled. It could be over the counter.

11 Q. Do they vary in terms of timing?

12 A. Yes.

13 Q. How -- what do you mean by that?

14 A. It all depends on the situation with their
15 primary supplier. That kind of dictates when they're
16 going to order something from us and what they're
17 going to order. It could be a product availability
18 issue. There's some different circumstances.

19 Q. So in terms of timing, was it your experience
20 when you were the head of the DEA compliance that
21 customers ordered at random -- often ordered at
22 random intervals?

23 A. Yeah.

24 Q. Now I would like you to turn back to what we

1 marked as Exhibit 63. And -- which is the Code of
2 Federal Regulations, and I would like for you to read
3 into record the last sentence of Section 1301.74,
4 subparagraph B, which beginning with "Suspicious
5 orders."

6 A. Suspicious orders include orders of unusual
7 size, orders deviating substantially from a normal
8 pattern, and orders of unusual frequency.

9 Q. How does that definition of suspicious orders
10 relate to your experience as a compliance -- head of
11 compliance at a secondary supplier of pharmaceutical
12 products?

13 MR. NOVAK: Objection.

14 THE WITNESS: Based on that, you could
15 consider every controlled substance order
16 suspicious to a certain extent.

17 BY MR. MATTHEWS:

18 Q. Right.

19 Now, a lot of the testimony today -- or a lot
20 of the questions you were asked today focused upon
21 the implementation of Anda's electronic order
22 monitoring system.

23 Do you remember those questions?

24 A. Yes.

1 Q. I want to clarify something right up front.

2 From time to time, do you refer to your --

3 first of all, let me ask you this: What is an

4 electronic order monitoring system?

5 A. It's a system that encompasses multiple

6 facets of data and information.

7 Q. Is the purpose of an electronic order

8 monitoring system to analyze orders received in real

9 time as they're received electronically?

10 A. Yes.

11 Q. And from time to time did you refer to the

12 electronic order monitoring system that Anda put in

13 place as a SOM system?

14 A. Yes.

15 Q. In your view, was the electronic order

16 monitoring system the total sum and substance of

17 Anda's suspicious order monitoring system?

18 MR. NOVAK: Objection.

19 THE WITNESS: No.

20 BY MR. MATTHEWS:

21 Q. Could you describe for the record your view

22 of what Anda's system for detecting suspicious orders

23 was in place during the time that you were there?

24 A. It included collecting customers' information

1 as far as our customer questionnaire is concerned;
2 their licensing; the fact that we were reviewing
3 dispense data; the fact that we were reviewing
4 products; potential doctors that they were even using
5 from a script-filling perspective.

6 Q. Was there any period of time during your
7 employment at Anda as head of DEA compliance that
8 Anda didn't have in place a system for detecting
9 suspicious orders?

10 A. No.

11 MR. NOVAK: Objection.

12 BY MR. MATTHEWS:

13 Q. What, if any, time while you were employed as
14 DEA compliance head at Anda did Anda not have a
15 system in place for detecting suspicious orders?

16 MR. NOVAK: Objection.

17 THE WITNESS: No.

18 BY MR. MATTHEWS:

19 Q. By that, you mean none?

20 A. Yeah, none.

21 Q. Okay. So one purpose -- when you -- I'll
22 withdraw that.

23 At some point in time, Anda implemented an
24 electronic order monitoring system; is that correct?

1 A. Yes.

2 Q. When was that, to the best of your
3 recollection?

4 A. 2007?

5 Q. If I -- well, if I say 2011, does that
6 refresh your recollection?

7 MR. NOVAK: Objection.

8 THE WITNESS: 20 -- yeah, 2010 to 2011.

9 BY MR. MATTHEWS:

10 Q. Having refreshed your recollection, what was
11 the period of time that Anda implemented electronic
12 order monitoring system to the best of your
13 recollection?

14 A. 2011.

15 Q. Okay. Was the electronic order monitoring
16 system that was implemented designed to detect
17 changes in patterns of ordering by your customers?

18 A. Yes.

19 Q. Would you explain, in light of the problems
20 that secondary suppliers have, what problems you had
21 with respect to electronic order monitoring systems?

22 A. The problems? Well, we reviewed hundreds of
23 thousands of orders based on customers' purchasing
24 history from us and the fact that we were a secondary

1 supplier. It was -- the system could create a lot of
2 false positives.

3 Q. There was some testimony earlier today about
4 the particular algorithm that the system used to flag
5 orders.

6 Do you recall that testimony?

7 A. Yes.

8 Q. Without regard to whatever the algorithm was,
9 after you implemented the electronic order monitoring
10 system, how many orders approximately were being
11 flagged by the system on a month-to-month basis?

12 A. I'm not sure. I don't remember, but it was
13 thousands.

14 Q. And were all of those orders reviewed by the
15 compliance department?

16 A. Yes.

17 Q. And how many of those orders did you
18 determine could be shipped?

19 A. The majority of them.

20 Q. And what was the basis on which you made the
21 decision that, although the orders had been flagged
22 by the electronic order monitoring system, they could
23 be shipped?

24 A. The data that we have collected from the

1 customer as far as our customer questionnaire and
2 dispensing information.

3 Q. What was your view of the accuracy of the
4 electronic order monitoring system in identifying
5 orders that ultimately were suspicious?

6 A. Not very accurate.

7 Q. And why?

8 A. Because of the volume and the amount of
9 orders and the sporadic nature of our secondary
10 business model.

11 Q. And so was that a problem, in your view, that
12 could be fixed by changing the algorithm?

13 A. I'm not sure.

14 Q. Given the problems of applying an electronic
15 order monitoring system to the business that Anda was
16 engaged in, what was it you, as head of compliance at
17 DEA, relied upon to be the best evidence or the best
18 method for detecting, identifying, and preventing
19 shipment of orders that you believed were suspicious?

20 MR. NOVAK: Objection.

21 THE WITNESS: Say that one again.

22 BY MR. MATTHEWS:

23 Q. Given the problems --

24 A. I'm getting really tired.

1 Q. Yeah, I apologize.

2 Given the problems that you've described in
3 using the electronic order monitoring system in
4 connection with a business such as Anda which has
5 irregular patterns of ordering from its customers
6 because it's a secondary supplier, what was it you
7 believed, as head of DEA compliance at Anda, was the
8 best method for identifying potentially suspicious
9 orders?

10 MR. NOVAK: Objection.

11 THE WITNESS: Reviewing customers' data that
12 was submitted.

13 BY MR. MATTHEWS:

14 Q. Okay. I have you testified earlier that --
15 well, let me ask it this way: What is your best
16 recollection of when you first received guidance from
17 anyone about knowing your customer?

18 MR. NOVAK: Objection.

19 THE WITNESS: Maybe 2007.

20 BY MR. MATTHEWS:

21 Q. Okay. And from your perspective, what does
22 it mean to know your customer?

23 A. Having background information on them from a
24 business perspective. Basically what was outlined in

1 our customer questionnaire.

2 Q. Does that include information about the mix
3 of products they dispensed?

4 A. Sure. Percentage of cash business, you know,
5 versus credit card or insurance, things along those
6 lines; having a list of primary physicians that they
7 would dispense for from a script standpoint.

8 There's a lot of different things in the
9 customer questionnaire. I haven't looked at one for
10 several years but . . .

11 Q. Okay. After you received that guidance in
12 2007 about knowing your customer, what did you do?
13 What did Anda do?

14 A. We -- we sent out the first version of our
15 customer questionnaire to all of the customers that
16 we had in our database that were purchasing
17 controlled substances. I believe in that first
18 version we also asked for dispense data.

19 It wasn't -- it was an evolving process. The
20 questionnaire is different now than it was -- well,
21 it was different in '16, you know, based on what it
22 was in 2007, but I'm pretty sure that was in there as
23 well.

24 Q. All right. There was some testimony earlier

1 today about the reports that were called monthly --
2 or were called excessive order reports and suspicious
3 order reports that Anda filed with the DEA in some
4 period of time.

5 Do you recall that testimony?

6 A. Yes.

7 Q. Prior to 2005, what feedback did you receive
8 from DEA about the suspicious order and excessive
9 order reports you were submitting on a monthly and
10 weekly basis?

11 MR. NOVAK: Objection.

12 THE WITNESS: None that I can recall.

13 BY MR. MATTHEWS:

14 Q. Was there ever a time that they asked you to
15 submit them in a particular format?

16 A. Yes. Originally, we were faxing them
17 documents, and they requested at some point -- I'm
18 not sure of the date -- for us to export them in
19 Excel and e-mail it so there was an electronic
20 version of it rather than a faxed paper copy to their
21 fax number.

22 Q. There were -- sorry.

23 There were a series of questions about
24 e-mails you received from DEA about customers who

1 other distributors had ceased doing business with.

2 Do you remember those questions?

3 A. Yup.

4 Q. Could you find in your pile of exhibits
5 Exhibit Number 10, please.

6 Do you have it in front of you, Mr. Cochrane?

7 A. Yes.

8 Q. Mr. Novak asked you some questions about
9 this. This is an e-mail chain between you and
10 Mr. Wright at DEA about customers that were cut off,
11 right?

12 A. Yes.

13 Q. And just so that I have it correctly, it was
14 a policy of the company to -- what was the policy of
15 the company after -- when it received these kinds of
16 reports?

17 A. That at this point in time we would -- we
18 would discontinue sales to them as well.

19 Q. All right. Can you look at the second page
20 of Exhibit 10, and after the list of doctors, do you
21 see the paragraph beginning "Your company"?

22 A. Yes.

23 Q. Could you read that into the record, that
24 paragraph, that sentence into the record?

1 A. Your company has the right to continue sales
2 as deemed appropriate, and this notification of
3 itself does not infer administrative or criminal
4 proceedings will be initiated based on this
5 notification alone.

6 Q. Was it your understanding that Anda's
7 decision to terminate sales was voluntary?

8 A. Yes.

9 Q. If you look at Exhibit 11, please. That's
10 another series of e-mails between you and the folks
11 at DEA about customers that were cut off, right?

12 A. Yes.

13 Q. Does it contain the same statement about your
14 right to continue sales?

15 A. Yes.

16 Q. Thank you.

17 Could you take a look at Exhibit 13, please.

18 MS. RIGBERG: Excuse me. This is Karen
19 Rigberg. The live feed with the text has
20 stopped, so could you get closer to the
21 microphone?

22 MR. MATTHEWS: Everybody had their microphone
23 on their ties or their blouses.

24 MS. RIGBERG: Okay. That's pretty close.

1 MR. MATTHEWS: I'm not sure about the live
2 feed.

3 THE VIDEOGRAPHER: Do you want to go off the
4 record real quick?

5 MR. MATTHEWS: Okay.

6 THE VIDEOGRAPHER: Off the record at 8:11.

7 (Recess from 8:11 until 8:14 p.m.)

8 THE VIDEOGRAPHER: Back on the video record
9 at 8:14.

10 BY MR. MATTHEWS:

11 Q. All right. Mr. Cochrane, we were looking at
12 Exhibit 13, which is e-mail from Emily Schultz to you
13 describing a meeting with DEA, correct?

14 A. Yes.

15 Q. And there's reference there on the first page
16 to an individual named Doug Towle.

17 Do you see that?

18 A. Yes.

19 Q. Just so the record the clear, the e-mail is
20 dated December 14th, 2011, correct?

21 A. Yes.

22 Q. When did Mr. Towle leave employment at Anda
23 to the extent you remember?

24 A. Sometime in 2006.

1 Q. All right. Was it -- did you understand
2 that -- that DEA, in 2011, said that Mr. Towle, while
3 he was an employee of Anda, did anything to cause the
4 opioid crisis?

5 A. No.

6 Q. And he had been gone from Anda for five years
7 before DEA made these statements, right?

8 A. Yes.

9 MR. NOVAK: Objection.

10 BY MR. MATTHEWS:

11 Q. Do you know what Mr. Towle did after he left
12 Anda?

13 MR. NOVAK: Objection.

14 THE WITNESS: I'm not sure.

15 BY MR. MATTHEWS:

16 Q. Did he continue to be in the industry?

17 A. Yes. I just don't know where he ended up.

18 Q. What was your understanding of what he was
19 doing?

20 A. Yes, he was still within the pharmaceutical
21 industry.

22 MR. NOVAK: Objection.

23 BY MR. MATTHEWS:

24 Q. And what was -- in what capacity? What

1 was --

2 A. Sales.

3 Q. -- his responsibility?

4 A. Sales.

5 Q. Thank you.

6 Could you look at Exhibit 23.

7 Exhibit 23 is an e-mail dated December 11 --

8 an e-mail chain with an e-mail dated December 11,

9 2007, from Emily Schultz to you, right?

10 A. Yes.

11 Q. And Mr. Novak asked you some questions about

12 some language in Exhibit 23 that I want to follow up

13 on. Specifically, if you look in the middle of the

14 page, there's a sentence in an e-mail from

15 Ms. Schultz to you which says: Some are good

16 customers.

17 Do you see that?

18 A. Yes.

19 Q. What did you understand was meant by the

20 phrase "good customers"?

21 A. They didn't need to be immediately cut off.

22 They were still looking into them and there was

23 nothing suspicious about them as far as we were

24 concerned.

1 Q. Okay. What, if anything -- I'll withdraw
2 that. Never mind.

3 Could you turn to what was marked as
4 Exhibit 25, please.

5 Mr. Cochrane, Mr. Novak asked you a series of
6 questions this afternoon about communications between
7 you and DEA and Tracey Hernandez about electronic
8 reports that DEA had asked Anda to submit directly to
9 DEA offices in Washington sometime in 2007.

10 Do you recall that testimony?

11 A. Yes.

12 Q. Okay. Can you explain briefly what DEA asked
13 Anda to submit in that meeting in 2007?

14 MR. NOVAK: Objection.

15 THE WITNESS: ARCOS reports on a daily basis
16 for all of our controlled substance transactions.

17 BY MR. MATTHEWS:

18 Q. Anything else?

19 A. And suspicious orders.

20 Q. Okay.

21 A. In an ARCOS format.

22 Q. All right. What's ARCOS?

23 A. It's a specific format for reporting
24 transactional data that DEA has outlined that's

1 basically just a notepad in their specific format,
2 and it gets uploaded into whatever system they use.

3 Q. And what kind of orders are reported in
4 ARCOS?

5 A. Schedule II and some Schedule III
6 transactions.

7 Q. Is --

8 A. Sales, receipts, credits.

9 Q. And was there any limitation on the number or
10 the transactions that are reported for Schedule II
11 drugs in ARCOS?

12 MR. NOVAK: Objection.

13 THE WITNESS: Limitations, no.

14 BY MR. MATTHEWS:

15 Q. You report everything?

16 A. For IIs, yes.

17 Q. And the -- what was the agreement that you
18 reached with DEA about ARCOS reporting in that
19 meeting of 2008?

20 A. They wanted us to --

21 MR. NOVAK: Objection.

22 THE WITNESS: All transactions for all
23 schedules of drugs.

24 ///

1 BY MR. MATTHEWS:

2 Q. Including Schedule II?

3 A. Yeah, and IV and V.

4 Q. And to whom were you going to report that?

5 A. To headquarters.

6 Q. In what kind of format?

7 A. In the ARCOS format.

8 Q. So electronically?

9 A. Yes.

10 Q. And the same was true with respect to
11 suspicious orders; is that correct?

12 A. Yes.

13 Q. Okay. Just so it's -- I understand it
14 completely, what ARCOS reporting did Anda do while
15 you were employed as head of DEA compliance there?

16 A. Monthly.

17 Q. Okay. And were -- where were those reports
18 made?

19 A. At our office.

20 Q. And what was -- no, I mean to whom were the
21 reports made?

22 A. To headquarters in Washington.

23 Q. Headquarters of what?

24 A. DEA.

1 Q. And what was included in those monthly
2 reports?

3 A. Schedule II transactions and some
4 Schedule III transactions that were reportable.

5 Q. Can you recall offhand today what
6 Schedule III transactions were reported while you
7 were head of DEA compliance?

8 A. Primarily hydrocodone before it became a
9 Schedule II.

10 Q. And during a period of time that you were
11 head of DEA compliance, all transactions for
12 Schedule II sales by Anda and all transactions for
13 sales of hydrocodone were reported in an ARCOS format
14 on a monthly basis to DEA?

15 A. Yes.

16 Q. Okay. The meeting with DEA where you reached
17 this tentative agreement to report suspicious orders
18 in all transactions directly on a daily basis to
19 Washington was sometime in 2007 -- in the summer of
20 2007, right?

21 A. Yes.

22 MR. NOVAK: Objection.

23 BY MR. MATTHEWS:

24 Q. And after that, what kind of reporting of

1 suspicious orders did Anda do to the field office in
2 South Florida or in Ohio?

3 A. There were none.

4 Q. And if you look at Exhibit 25 -- I'm sorry.

5 Could you look at Exhibit 24, please,
6 Mr. Cochrane.

7 If you turn to the fourth page of the exhibit
8 which bears the Bates Number Anda Opioids MDL 276125,
9 there's an e-mail on that page from Mr. Wright at DEA
10 to you, right?

11 A. Yes.

12 Q. And he's discussing a proposed MOA, right?

13 A. Yes.

14 Q. Which is short for memorandum of agreement,
15 right?

16 A. Yes.

17 Q. Right.

18 Could you read what Mr. Wright wrote to you
19 in the first paragraph of his e-mail on April 10,
20 2008?

21 A. I have attached an MOA for you and your firm
22 to review. This is an agreement between Anda and DEA
23 which protects your firm, particularly from not
24 reporting directly to the field offices. Please

1 review and send me any questions that you may have.

2 Q. What did you understand he meant about
3 protecting Anda from not reporting directly to the
4 field offices?

5 A. I wasn't a hundred percent sure. This is the
6 first I had seen or -- or even been offered something
7 like this from DEA.

8 Q. At the time, was Anda reporting suspicious
9 orders directly to the field offices?

10 A. No.

11 Q. Was it your understanding that DEA had asked
12 Anda to report suspicious orders directly to
13 Washington in lieu of reporting it to the field
14 offices?

15 A. I don't remember if that's what he meant
16 or -- or that's what he said.

17 Q. All right. If you look above that,
18 throughout this chain of e-mails, there's a reference
19 to a suspicious order monitoring system and
20 discussion about whether Anda had one in place,
21 right?

22 A. Yes.

23 Q. Is it your view that you had a suspicious
24 order monitoring system in place in April of 2008?

1 A. With our 5,000 dosage unit limits and our --
2 beginning the collection of due diligence data, we
3 had something in place, yes.

4 Q. What about an electronic order monitoring
5 system? Did you have that in place at that time?

6 A. No.

7 Q. If you put -- could you look at Exhibit 25,
8 please.

9 A. Is the air shut off in here?

10 Q. Yeah, it may have, and I apologize for that.

11 Exhibit 25 is an e-mail chain between you and
12 Tracey Hernandez of Watson, right?

13 A. Yes.

14 Q. And the top e-mail is -- Mr. Novak asked you
15 some questions about this -- a report that
16 Ms. Hernandez gave you about a conversation she had
17 with Mr. Wright at DEA, right?

18 Very first page, first e-mail.

19 A. Uh-huh.

20 Q. And if you look in the middle of that first
21 e-mail, you see about five lines down, a sentence
22 that begins "He said we"?

23 A. Yes.

24 Q. Could you read that sentence into the record?

1 A. He said we still have the option of supplying
2 the local office, but they would prefer it to come to
3 headquarters in an automated format.

4 Q. And from reading the e-mail, do you
5 understand what information Mr. Wright was referring
6 to in that sentence?

7 A. Yes.

8 Q. What is it?

9 A. Suspicious orders.

10 Q. Okay. So does that refresh your recollection
11 about whether at this time the agency had asked Anda
12 to report suspicious orders directly to it in
13 Washington rather than to the field office?

14 A. Yes.

15 Q. In the communications we've seen today,
16 there's back and forth about what kind of suspicious
17 order volumes you would have to report at this time.

18 Could you explain what -- what you were
19 concerned about and why you did not believe -- let me
20 withdraw that.

21 Could you explain why you believed that you
22 did not have -- would not have a high volume of
23 suspicious orders to report in April of 2008?

24 A. We had implemented the 5,000 dosage unit cap

1 per family at the -- at the suggestion of DEA from a
2 prior meeting.

3 Q. Would you turn to Exhibit 35, please.

4 Before we talk about Exhibit 35 in
5 particular, Mr. Cochrane, I want to ask a question
6 generally about compliance -- or the compliance
7 function at Anda while you were head of DEA
8 compliance.

9 What kind of -- while you were head of DEA
10 compliance -- I'll withdraw that.

11 Let's take a look at Exhibit 35.

12 Exhibit 35 is an e-mail chain between you and
13 Howard Davis concerning a customer called Pile Drug
14 Store, right?

15 A. Yes.

16 Q. And was there a request made of compliance
17 about sales to Pile Drug Store at this time?

18 A. Was there a request?

19 Q. Did somebody ask you to do something?

20 A. Yeah. I don't know who.

21 Q. All right. Look at the e-mail -- the second
22 e-mail in the chain on the first page of the exhibit.

23 It's an e-mail from Howard Davis --

24 A. Yes.

1 Q. -- to Michael Cochrane, right?

2 A. Yup.

3 Q. He writes: Can you please call this guy and
4 talk to him.

5 Do you see that?

6 A. That's from me to Howard.

7 Q. I'm sorry.

8 You wrote that?

9 A. I wrote that to Howard, yes.

10 Q. And then could you read the next sentence in
11 that e-mail?

12 A. He reached out to Paul Bisaro.

13 Q. Who was Paul Bisaro?

14 A. Paul Bisaro was the CEO of Watson and
15 Actavis.

16 Q. And that was your -- Anda's parent company at
17 the time, right?

18 A. Correct. I believe Al reported directly to
19 him.

20 Q. Okay. So Paul Bisaro from the prospective of
21 the management chain was an important person, right?

22 A. The top guy, yeah.

23 Q. And, ultimately, what decision did you make
24 notwithstanding that Mr. Bisaro, the CEO of Actavis,

1 was contacted by this customer?

2 A. That we weren't going to be reinstating his
3 DEA and selling him controlled substances.

4 Q. How does this exhibit relate to how
5 compliance did its job in relation to pressure from
6 senior management or salespeople that it received
7 during the period of time that you were head of DEA
8 compliance?

9 MR. NOVAK: Objection.

10 THE WITNESS: It wasn't influential.

11 BY MR. MATTHEWS:

12 Q. By that you mean senior management and sales
13 folks did not influence the decisions compliance
14 made?

15 A. Correct.

16 Q. If you look at Exhibit 39 -- if you could
17 look at Exhibit 39.

18 Exhibit 39 is the first of several e-mails
19 and exhibits that you were shown by Mr. Novak about a
20 customer called -- known as Lake Erie -- I
21 apologize --

22 A. Lake Erie Medical.

23 Q. Lake Erie Medical Supply, I believe, right?

24 A. Yes.

1 Q. Do you remember that testimony?

2 A. Yes.

3 Q. Just so it's clear on the record, what kind
4 of customer was Lake Erie?

5 A. I believe they were a repackager, yes.

6 Q. All right.

7 And these e-mails were from 2008 but continue
8 on through, I think, as long as -- as late as 2010,
9 right?

10 A. I think so.

11 Q. Beginning of 2011, if you look at Exhibit 43.

12 A. Yes.

13 Q. So how many repackagers did Anda have a sales
14 relationship with after 2010, if you recall?

15 A. In one of these e-mails, it referenced two
16 either repackagers or distributors that were active
17 customers.

18 Q. What was it about Lake Erie that caused
19 Anda -- what information about Lake Erie did you know
20 that caused you to continue to sell controlled
21 substances to Lake Erie into 2011?

22 A. We -- we had to have had a questionnaire,
23 policies and procedures that they had in place, they
24 were giving us copies -- or they were giving us

1 updated listings of all their new customers, as I
2 read some of the other e-mails that we talked about
3 earlier.

4 Q. If you look at this Exhibit 39, it includes a
5 copy of a letter from a special agent in the Detroit
6 field office of the Drug Enforcement Administration
7 to Lake Erie, right?

8 A. Uh-huh.

9 Q. So you were fully informed of this letter,
10 right?

11 A. Yes.

12 Q. Are you aware of whether Lake Erie ever had
13 its status as a registrant -- let me ask you this:
14 Do you know whether the DEA instituted an enforcement
15 action against Lake Erie at any time after 2008
16 through 2011?

17 A. No.

18 Q. What information about the status of the --
19 (Telephone interruption.)

20 MR. MATTHEWS: Excuse me a second. Can we go
21 off the record.

22 THE VIDEOGRAPHER: Off the record at 8:38.

23 (Recess from 8:38 until 8:39 p.m.)

24 THE VIDEOGRAPHER: Back on the record at

1 8:39.

2 BY MR. MATTHEWS:

3 Q. Could you look at Exhibit 46?

4 Exhibit 46 is the letter of admonition from
5 Mark Trouville, special agent in charge of the Drug
6 Enforcement Administration, to Al Paonessa at Anda.

7 Do you see that?

8 A. Yes.

9 Q. And there is a section of that that concerns
10 what DEA characterizes as a "failure to report to DEA
11 suspicious orders."

12 Correct?

13 A. Yes.

14 Q. And if you turn to the second page, could you
15 read into the record the paragraph that begins
16 "Analysis"?

17 A. Analysis of Anda's distributions of oxycodone
18 during 2009 and 2010 reveal substantially significant
19 sales to numerous customers which consistently met
20 and exceeded 5,000 dosage units per month.

21 Q. What was your understanding from DEA as to
22 the basis for its conclusion that it believed that
23 "Anda had failed to report to DEA suspicious orders"?

24 MR. NOVAK: Objection.

1 THE WITNESS: I don't -- say it again.

2 BY MR. MATTHEWS:

3 Q. Was the paragraph that you just read into the
4 record, you understood, was the basis for DEA's
5 conclusion in its view that Anda had "failed to
6 report to DEA suspicious orders"?

7 MR. NOVAK: Objection.

8 THE WITNESS: Yes.

9 BY MR. MATTHEWS:

10 Q. Okay. Just so the record is clear, I'm going
11 to ask the question again.

12 What was your understanding of DEA's basis
13 for concluding that Anda had, in DEA's view, failed
14 to report to DEA suspicious orders?

15 MR. NOVAK: Objection.

16 THE WITNESS: That we were selling more than
17 5,000 dosage units per month to some customers.

18 BY MR. MATTHEWS:

19 Q. Okay. Was there any other basis that they
20 ever told you of?

21 MR. NOVAK: Objection.

22 THE WITNESS: No.

23 BY MR. MATTHEWS:

24 Q. Was that something you had discussed with

1 agents at DEA on multiple occasions between 2007 and
2 2011?

3 MR. NOVAK: Objection.

4 THE WITNESS: Yes.

5 BY MR. MATTHEWS:

6 Q. Was DEA, from your perspective -- what -- was
7 DEA, from your perspective, aware of the fact that
8 you were selling volumes of oxycodone in excess of
9 5,000 dosage units per month to certain customers
10 during this time period?

11 A. Yes.

12 MR. NOVAK: Objection.

13 BY MR. MATTHEWS:

14 Q. When you met with DEA about this letter,
15 did -- or at any time before you received this
16 letter, did any agent of DEA ever actually identify
17 any specific order that DEA believed was a suspicious
18 order?

19 A. No.

20 MR. NOVAK: Objection.

21 BY MR. MATTHEWS:

22 Q. During a period of time between the 2010
23 inspection and this 2011 order, what orders, if any,
24 did DEA identify to you as specific orders which it

1 believed were suspicious that Anda had failed to
2 report?

3 MR. NOVAK: Objection.

4 THE WITNESS: None.

5 BY MR. MATTHEWS:

6 Q. Could you look at Exhibit 52, please.

7 Before I move on, while you were head of DEA,
8 what, if any, enforcement actions did DEA bring
9 against Anda in connection with your DEA compliance?

10 A. None.

11 Q. While you were head of compliance at Anda,
12 what, if any, suspension orders did DEA issue to Anda
13 in connection with your DEA compliance?

14 A. None.

15 Q. While you were head of DEA compliance at
16 Anda, was there any period of time when your license
17 and your registration to distribute controlled
18 substances was withdrawn by DEA or by any enforcement
19 action?

20 A. No.

21 Q. Looking at Exhibit 52, Mr. Novak asked you
22 about this.

23 This is a series of e-mails between you and
24 Tracey Hernandez in 2007. And it includes a draft

1 e-mail that you prepared for the sales force at Anda
2 about the decrease -- or the changes in limits you
3 were about to impose --

4 A. Yes.

5 Q. -- on customers, right?

6 A. Yes.

7 Q. And you wrote in your draft e-mail to the
8 salespeople: Overselling of controlled substances
9 must stop.

10 Right?

11 A. Yes.

12 Q. Is there a difference between filling an
13 order and selling to customers?

14 A. No.

15 Q. Let me ask you this: Do the salespeople have
16 the ability to make decisions about whether an order
17 is filled --

18 A. No.

19 Q. -- of controlled substances?

20 A. No.

21 Q. In your view, while you were head of DEA
22 compliance at Anda, were -- were the salespeople that
23 you dealt with sometimes aggressive in selling
24 product?

1 A. Sure.

2 Q. Okay. When you wrote overselling must cease,
3 did you mean that Anda had been overfilling
4 prescriptions at that time?

5 MR. NOVAK: Objection.

6 THE WITNESS: We weren't filling scripts. We
7 were filling orders for pharmacies that were
8 filling scripts.

9 BY MR. MATTHEWS:

10 Q. Well, in 2007 when you wrote that e-mail,
11 were you suggesting that the compliance department
12 was over-approving orders for controlled substances?

13 A. No.

14 Q. Would you take a look at Exhibit 56, please.

15 Exhibit 56 is a series of e-mails between you
16 and Sabrina Solis. And on the first page of
17 Exhibit 56, there's an e-mail from Ms. Solis to you
18 talking about a customer's profile, right?

19 A. Yes.

20 Q. And she lists in this e-mail the customer's
21 top ten drug products, right?

22 A. Yes.

23 Q. At the time in June 14, 2012, was this
24 customer authorized to receive -- to purchase

1 controlled substances from Anda?

2 A. Yes, I believe so.

3 Q. Look about your e-mail to her.

4 A. Oh.

5 Q. You wrote: I think we should turn them back
6 on.

7 Do you see that?

8 A. Yes, I do.

9 Q. Does that refresh your recollection as to
10 whether this customer was authorized to receive
11 controlled substances from Anda in June 2012?

12 A. Yeah, I don't think they were.

13 Q. Okay. So the data that's described in that,
14 is that -- does that data represent sales made by
15 Anda to this customer or is it something else?

16 A. No. It's --

17 MR. NOVAK: Objection.

18 THE WITNESS: No, it's sales by any other
19 distributor. It's not specific to Anda.

20 BY MR. MATTHEWS:

21 Q. Okay. Just to clean up the record, what does
22 the sales data included in the first page of
23 Exhibit 56 refer to?

24 A. These are the number of dosage units that

1 they dispensed in a specific month.

2 Q. Do you know from whom those products were
3 obtained by this customer at that time?

4 A. Could have been Anda. It could have been
5 someone else. I don't know.

6 Q. Were they authorized to purchase products
7 from Anda at this time -- controlled substance
8 products at this time?

9 A. No. They were trying to have their license
10 -- they were trying to be reinstated.

11 Q. So would that data reflect sales made by
12 Anda?

13 A. Potentially not, no.

14 Q. All right. The time is 8:50 p.m.

15 What time did you wake up this morning,
16 Mr. Cochrane?

17 A. 5:15.

18 Q. I appreciate your willingness to testify at
19 length. At this time I don't have any further
20 questions for you. Thank you.

21 THE VIDEOGRAPHER: The time is 8:49 p.m. We
22 are going off the record. This marks the end of
23 the deposition -- sorry.

24 MR. NOVAK: The protocol in this case gives

1 me an opportunity to requestion. I don't think I
2 have much, if anything. I just want to confer
3 with my colleagues for a minute.

4 (Recess from 8:49 until 8:53 p.m.)

5 THE VIDEOGRAPHER: The time is 8:53. We are
6 now back on the record.

7 MR. NOVAK: I'm going to try to keep this
8 short.

9 REDIRECT EXAMINATION

10 BY MR. NOVAK:

11 Q. But, Mr. Cochrane, you were asked some
12 questions by Mr. Matthews regarding Anda's
13 implementation of its monitoring programs during the
14 time period you were a compliance manager.

15 You are aware of instances where Anda did not
16 follow its own procedures as it related to screening
17 of customers for the sale of controlled substances,
18 are you not?

19 MR. MATTHEWS: Objection. Outside the scope.

20 THE WITNESS: Specifically?

21 BY MR. NOVAK:

22 Q. For example, instances where you approved
23 sales to controlled -- of controlled substances to
24 customers without having dispense data that would be

1 called for in your own protocols?

2 A. We didn't start collecting dispense data
3 until 2007, and we had existing customers that were
4 buying controlled substances from us prior to that
5 and after 2007, yes.

6 Q. And in addition to not having dispensing data
7 for some of those customers, you did not have
8 customer questionnaires for all the customers that
9 you provided controlled substances to after 2007, did
10 you?

11 MR. MATTHEWS: Objection.

12 THE WITNESS: Correct.

13 MR. NOVAK: Okay. That's all I have.

14 THE VIDEOGRAPHER: The time is 8:54 p.m.

15 This marks the end of the deposition. We are now
16 off the record.

17 (Whereupon, the deposition concluded at
18 8:54 p.m.)

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1 C E R T I F I C A T E

2

3 I, KELLY J. LAWTON, Registered Professional
4 Reporter, Licensed Court Reporter, and Certified
5 Court Reporter, do hereby certify that, pursuant to
6 notice, the deposition of MICHAEL COCHRANE was duly
7 taken on January 15, 2019, at 9:11 a.m. before me.

8 The said MICHAEL COCHRANE was duly sworn by
9 me according to law to tell the truth, the whole
10 truth and nothing but the truth and thereupon did
11 testify as set forth in the above transcript of
12 testimony. The testimony was taken down
13 stenographically by me. I do further certify that
14 the above deposition is full, complete, and a true
15 record of all the testimony given by the said
16 witness.

17

18

19 _____
KELLY J. LAWTON, RPR, LCR, CCR

20

21 (The foregoing certification of this
22 transcript does not apply to any reproduction of the
23 same by any means, unless under the direct control
24 and/or supervision of the certifying reporter.)

INSTRUCTIONS TO WITNESS

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Please read your deposition over carefully and make any necessary corrections. You should state the reason in the appropriate space on the errata sheet for any corrections that are made.

After doing so, please sign the errata sheet and date it. It will be attached to your deposition.

It is imperative that you return the original errata sheet to the deposing attorney within thirty (30) days of receipt of the deposition transcript by you. If you fail to do so, the deposition transcript may be deemed to be accurate and may be used in court.

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2 E R R A T A

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ACKNOWLEDGMENT OF DEPONENT

I, MICHAEL COCHRANE, do hereby acknowledge
that I have read the foregoing pages, 1 to 327, and
that the same is a correct transcription of the
answers given by me to the questions therein
propounded, except for the corrections or changes in
form or substance, if any, noted in the attached
Errata Sheet.

MICHAEL COCHRANE

DATE

Subscribed and sworn to before me this
____ day of _____, 20____.
My Commission expires: _____

Notary Public

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